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ABSTRACT

This guide is designed for use in investigating college athletics program compliance with Title IX of the Educational Amendments of 1972, prohibiting sex discrimination in programs and activities receiving federal financial assistance. It is organized to assist investigators from the time a complaint is received or compliance review scheduled to issuance of a letter of findings. The first section explains general approaches to athletics investigations and differences between interscholastic and intercollegiate athletics, details the manual's organization and use, and discusses the determination of compliance. Subsequent sections address athletics program components that may be investigated: athletic financial assistance; accommodation of interests and abilities; equipment and supplies; scheduling of games/practice time; travel/per diem allowance; tutors; coaches; locker rooms, practice and competitive facilities; medical and training facilities and services; publicity; support services; and recruitment of student athletes. Each section includes on-site data request questions, interview questions, directions for analyzing information, charts for recording information and comparing programs, and cautions regarding acceptable differences between men's and women's athletics programs. Appendixes contain models for an investigative plan, data request, and letter of findings, explanation of T and Z tests used in determination of financial assistance, and a policy memorandum clarifying coaches' compensation regulations. (MSE)

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TITLE IX ATHLETICS INVESTIGATOR'S MANUAL

1990

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OFFICE FOR CIVIL RIGHTS
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TABLE OF CONTENTS

INTRODUCTION

APPROACH TO ATHLETICS INVESTIGATIONS 1

PROGRAM COMPONENTS

- Athletic Financial Assistance 14
- Accommodation of Interests and Abilities 21
- Equipment and Supplies 29
- Scheduling of Games and Practice Time 35
- Travel and Per Diem Allowance 43
- Tutors 49
- Coaches 55
- Locker Rooms, Practice and Competitive Facilities 64
- Medical and Training Facilities and Services 72
- Housing and Dining Facilities and Services 80
- Publicity 85
- Support Services 91
- Recruitment of Student Athletes 97

APPENDICES

TAB A - MODEL INVESTIGATIVE PLAN 105

TAB B - MODEL DATA REQUEST 121

TAB C - MODEL LETTER OF FINDINGS 132

TAB D - "Z" TEST AND "T" TEST 153

TAB E - POLICY MEMORANDUM - COACHES' COMPENSATION 165

INTRODUCTION

This manual is designed to assist investigators of the Office for Civil Rights (OCR) in the investigations of interscholastic and intercollegiate athletics programs offered by educational institutions required to comply with Title IX of the Education Amendments of 1972. Title IX prohibits sex discrimination in programs and activities that receive Federal financial assistance from the Department of Education. The regulation implementing Title IX contains specific provisions for athletics programs and athletic scholarships. In addition, the December 11, 1979, Intercollegiate Athletics Policy Interpretation, referred to throughout this manual as the Policy Interpretation, provides further clarification of the requirements for athletics programs under Title IX. The general principles of the Policy Interpretation also apply to interscholastic athletics.

This manual updates and supersedes the guidance developed by OCR for its investigators in the Interim Title IX Intercollegiate Athletics Manual issued July 28, 1980, and the memorandum entitled, "Guidance for Writing Title IX Intercollegiate Athletics Letters of Findings," issued March 26, 1982.

This manual is organized into several sections to assist investigators from the time a complaint is received, or a compliance review scheduled, to the issuance of a letter of findings. The first section, entitled Approach to Athletics Investigations, explains some general approaches to athletics investigations and the differences between interscholastic and intercollegiate athletics investigations. It provides further detail on the organization of the manual and the intent for its use, and addresses the determination of compliance for athletics programs. This section should be reviewed prior to initiating an investigation.

The next 13 sections address each of the program components that may be investigated for athletics programs. Each of these 13 sections includes pre-on-site data request questions, interview questions, directions for analyzing the information collected, charts on which to record information and compare programs, and cautions regarding differences between men's and women's athletics programs that may be acceptable under the Title IX regulation.

Following these 13 sections addressing the program components are appendices containing models for an investigative plan, data request, and letter of findings, an explanation of the "Z" test and the "T" test used in the determination of athletic financial assistance, and a policy memorandum providing clarification regarding coaches' compensation.

This manual assumes that the investigator is familiar with OCR's Investigation Procedures Manual (IPM) and, therefore, does not detail procedures outlined in the IPM. The manual also does not address specific requirements for club or intramural sports, although many of the same principles apply for determining equal opportunity in club and intramural programs.

APPROACH TO ATHLETICS INVESTIGATIONS

The legal authority for investigations of athletics programs is provided by Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 et seq. (Title IX). The regulation implementing Title IX, at 34 C.F.R. Part 106, effective July 21, 1975, contains specific provisions for athletics programs at 34 C.F.R. § 106.41 and athletic scholarships at § 106.37(c). Further clarification of the Title IX regulatory requirements is provided by the Intercollegiate Athletics Policy Interpretation, issued December 11, 1979 (44 Fed. Reg. 71413 et seq. (1979); OCR Policy Codification Document No. 117). As stated in the Policy Interpretation, "This Policy Interpretation is designed specifically for intercollegiate athletics. However, its general principles will often apply to club, intramural, and interscholastic athletic programs, which are also covered by regulation." All of the factors listed in the Policy Interpretation, which are quoted at the beginning of each section of the manual addressing a program component, apply to both interscholastic and intercollegiate athletics, unless otherwise stated. Additionally, general guidance for complying with the athletics requirements of Title IX is provided by a Memorandum to Chief State School Officers, and others, entitled: "Subject: Elimination of Sex Discrimination in Athletic Programs," issued September 1975 (40 Fed. Reg. No. 218-Tuesday, November 11, 1975; OCR Policy Codification Document No. 36).

There are 13 major factors listed in the Title IX regulation and the 1979 Policy Interpretation that may be investigated by OCR. OCR has termed these 13 major factors, "program components." Within these 13 program components, the Policy Interpretation lists specific factors to be investigated. The 13 program components are not considered to be a finite list. OCR may add factors if necessary. The 13 program components are (abbreviated here):

34 C.F.R. § 106.37(c) - athletic scholarships

34 C.F.R. § 106.41(c)(1) accommodation of athletic interests and abilities
(2) equipment and supplies
(3) scheduling of games and practice time
(4) travel and per diem allowance
(5) opportunity to receive coaching and academic tutoring[1]
(6) assignment and compensation of coaches and tutors
(7) locker rooms, practice and competitive facilities
(8) medical and training facilities and services
(9) housing and dining facilities and services
(10) publicity

Policy Interpretation - support services
- recruitment of student athletes

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[1] OCR has determined that the investigation and analysis of the coaching and tutoring program components are simplified significantly by combining the opportunity to receive coaching (§ 106.41(c)(5)) and the assignment and compensation of coaches (§ 106.41(c)(6)) into one investigative category and the opportunity to receive academic tutoring (§ 106.41(c)(5)) and the assignment and compensation of tutors (§ 106.41(c)(6)) into another investigative category.

MANUAL ORGANIZATION

Investigations of athletics programs are frequently difficult and lengthy, primarily because of the considerable amounts of information that must be collected, analyzed, and evaluated to determine compliance. The decision regarding compliance involves determining which benefits and services are provided to men and which are provided to women, whether there are any differences between benefits and services for men and women, and whether these differences have a negative impact on athletes of one sex, and thus, may result in noncompliance. The manual is designed to assist the investigator in obtaining, analyzing, and comparing the information necessary to make a compliance determination.

Overall, the manual has the following sections:

1. Approach to Athletics Investigations
2. 13 Program Component Sections

Appendices

Tab A - Model Investigative Plan
Tab B - Model Data Request
Tab C - Model Letter of Findings (LOF)
Tab D - "Z" Test and "T" Test - Formulas
Tab E - "Policy Clarification - Title IX Coaching Compensation"
Memorandum of June 27, 1983

This section, Approach to Athletics Investigations, provides general information necessary to an investigation. The major emphasis of the manual is the 13 sections addressing each of the program components. The appendices include model documents, the formulas for the "Z" test and "T" test, which are used for athletic financial assistance determinations, and a memorandum providing clarification on particular aspects of coaches' compensation. The model documents provide model language which may be used for any investigation and suggestions for modifying the documents for the particular investigation being conducted. In addition, the model LOF explains how to present most effectively the information obtained.

The 13 program component sections are each divided into five subsections:

1) a list of the factors to be investigated as specified by the Policy Interpretation;
2) an "information to collect" section that lists pre-on-site data request questions and interview questions to be addressed to specified individuals;
3) an "analysis" section that directs the investigator on the factors to be compared between men's and women's programs;
4) a "cautions" section that reminds the investigator of common nondiscriminatory justifications that may explain differences between men's and women's programs for that particular program component; and,
5) team and summary program comparison charts and, where necessary, facilities charts, on which to summarize pertinent information and organize information by team and by program.

The following explains the intent of each of the five subsections of the 13 program component sections.

Policy Interpretation Factors

The list of factors at the beginning of each program component section is quoted from the Policy Interpretation in full since OCR's evaluation of compliance for each program component will be based on these factors. The instructions in each program component section are designed to arrive at a final conclusion for each factor, and then, for the program component as a whole.

Data Request and Interview Questions

The data request and interview questions provided in each program component section are based on OCR investigative experience. They are not expected to elicit all information necessary to a finding. These questions are designed for both interscholastic and intercollegiate programs and are expected to elicit responses that will either lead directly to the practical information necessary for compliance comparisons or lead the investigator to the source of additional information necessary.

Some program component sections indicate that administrators or others should be interviewed as necessary. These instructions recognize that individual institution program structures vary considerably. Usually, the larger the institution, the more staff and administrators are likely to have specialized duties and experience. The more specialized staff means that there are many more individuals who will have to be interviewed. The investigator may need to interview more individuals than are listed in the program component sections of this manual. The investigator should modify and expand the interview questions for these individuals as appropriate.

Analysis

The basic instruction for analyzing information is, most often, to compare the benefits for men with the benefits for women for a certain factor within a program component. Once comparisons have been made for all factors within a program component, the investigator then determines whether the differences for each factor or all of the factors combined have a disparate impact on one sex. If so, and these differences cannot be explained by nondiscriminatory justifications, a disparity exists for the program component.

Cautions

The Policy Interpretation lists several examples of differences in benefits provided to men and women that may be the result of nondiscriminatory reasons, such as the unique aspects of a particular sport. If a nondiscriminatory justification can be provided for differences in benefits provided to men and women, even though it may appear to affect negatively students of one sex, then there is no disparity. Based on these possibilities, each program component section has a "cautions" subsection alerting the investigator to the most common sex neutral justifications for apparent disparities. The investigator must determine whether any apparent disparity may be explained by a nondiscriminatory justification. (The section below on disparities lists the nondiscriminatory justifications noted in the Policy Interpretation.)

Charts

The charts were designed to assist the investigator (and may be used at the investigator's discretion) in organizing the information obtained and to provide a format for a quick comparison of benefits and services provided to men and women. The charts can and should be modified to accommodate the program under review or to facilitate the display of information. The team charts and facilities charts, for the program components where facilities charts are useful, may have sufficient space to record all pertinent information. However, the program comparison charts have space for summary information only. The program comparison charts may help provide the investigator with a clearer understanding of what factors to analyze and the type of analysis that is necessary.

Each section of the manual addressing a program component may be used independently. However, information provided for one program component may be significant in consideration of another program component. For example, in investigating the program component of travel and per diem, institution representatives may indicate that a certain mode of transportation is used for a particular team because of additional personnel, such as trainers, who travel with that team to away games. Under the program component of medical and training facilities and services, the list of interview questions includes how many trainers travel with teams to away games. In this example, the investigator should compare the information obtained for travel and per diem with the information obtained for medical and training facilities and services. The investigator should always be prepared to cross-check information among the program components to eliminate conflicts.

GENERAL CONSIDERATIONS

Athletics programs, and the compliance problems in those programs, may vary considerably. To address these variations, the regional offices may exercise discretion in several areas noted in the manual as may be necessary for a particular investigation. The regional offices may modify the charts, interview questions, and the model documents in the appendices as warranted. Also, a regional office's prior experience with a particular issue or school system may, on occasion, dictate specific action that varies from the instructions in this manual.

The investigator should follow the instructions of the manual closely when regional office discretion is not otherwise warranted. The manual incorporates investigative experiences of OCR's regional offices. It has been designed to ensure a thorough investigation and to minimize the need for follow-up contacts with the institution. Instructions requiring action by the investigator appear in capital letters so that they may be easily recognized when scanning the manual.

The size of an athletics program is often reflective of the size of the institution, and size differences may result in significant program differences. A small school district or small college may have: very few teams for men and women; coaches with little experience, some of whom may be volunteers; few facilities; limited travel budgets; athletes who provide much of the equipment; trainers who are volunteers; no housing and dining services, tutoring, or athletic scholarships; publicity provided by art students who do posters; etc. A large university may have a program that exists much as a business corporation. The football team may have: ten full time salaried coaches; two full time certified trainers; two or three part time assistant trainers and several student trainers; a full time salaried "strength coach;" a medical doctor on call; the maximum number of scholarships permitted by athletic association rules; etc. The athletics program may have: its own jet to transport teams; exclusive and/or priority use of all facilities; three full time salaried sports information personnel with separate duties for radio and television coverage; separate dormitories for athletes; special diets for athletes; individual tutors; several athletics program administrators with several clerical staff; etc. The manual takes into account these potentially significant program differences and has model data request and interview questions and team and program comparison charts prepared to address these differences.

Obtaining pre-on-site information may assist the investigator in conducting an efficient and thorough investigation. Such a request for information may be limited to only that information which is essential for review prior to the on-site. Generally, data should be requested for the current year. For sports that have not been played yet that year, request the institution to provide data from the previous year, to label it as such, and to include any information relevant to plans or commitments for the current year. For specific issues, information from the current and previous years may be necessary (of course, if current year information is unavailable, information from the previous two years may be necessary). The Model Data Request at Tab B identifies those issues.

Support Organizations: Interscholastic and intercollegiate athletics programs may benefit from the support of booster clubs or other fundraising organizations that may or may not be sponsored by the institution. Traditionally, booster clubs are independent of institution control, and clubs vary in the teams they choose to support. Such clubs may support all athletics teams, some teams, or one team at an institution.

OCR usually has no authority to investigate independent booster clubs. However, institutions must ensure that equivalent benefits and services are provided to members of both sexes. Therefore, where booster clubs provide benefits or services that assist only teams of one sex, the institution shall ensure that teams of the other sex receive equivalent benefits and services. If booster clubs provide benefits and services to athletes of one sex that are greater than what the institution is capable of providing to athletes of the other sex, then the institution shall take action to ensure that benefits and services are equivalent for both sexes.

Occasionally, OCR must investigate the provision of support organizations such as cheerleaders, pep bands, drill teams, etc., in interscholastic and intercollegiate athletics programs. The provision of such support organizations should be investigated under the program component of publicity at § 106.41(c)(10). However, the provision of cheerleaders, pep bands, drill teams, etc., is to be investigated only if a complainant alleges noncompliance in the provision of such groups. (See the section addressing the program component of publicity for additional guidance.) The participation and membership policies for such groups are not to be included in athletics investigations, only the provision of such groups in supporting athletics teams. As noted in the September 1975 memorandum to chief state school officers and others entitled. "Subject: Elimination of Sex Discrimination in Athletic Programs." the participation and membership policies for cheerleaders, pep bands, drill teams, etc., are to be investigated under 34 C.F.R. § 106.31 addressing education programs and activities.

Generally, interscholastic and intercollegiate athletics investigations will require on-site investigation. OCR experience in athletics investigations indicates that the following approach may be useful during on-site investigations.

Step One: The investigator, once on-site, conducts an opening conference with appropriate institution representatives and generally explains why the investigation is being conducted and the factors that the investigator intends to review.

Step Two: The investigator tours the institution's athletic facilities with someone knowledgeable of these facilities. It is very important that the person showing any facility to the investigator is knowledgeable of the particular facility since the investigator may be using the visual inspection to confirm information obtained about that facility. Five program components instruct the investigator to make a visual inspection of facilities. They are: 1) equipment and supplies; 2) locker room, practice and competitive facilities; 3) medical and training facilities and services; 4) housing and dining facilities and services (when special services for athletes are provided); and 5) support services (office space and equipment). Visual inspections of services under other program components may also be very useful.

Step Three: The third step is to conduct the interviews of institution staff and athletes. Although the manual addresses the program components in separate sections, the investigator, once an interview has been scheduled with a particular coach, administrator, or athlete, may be asking questions addressing all the program components (that are to be addressed by the investigation) at one time. This will require the investigator to organize information and interview questions for all program components prior to the interview. The team and facilities charts should be helpful in recording and organizing most information.

This manual has been designed for both intercollegiate and interscholastic athletics investigations. Throughout the manual, however, most descriptions on the basis of sex refer to "men's and women's" teams or programs in order to simplify the discussion. Of course, for interscholastic athletics investigations, references to "boys' and girls'" teams or programs are more appropriate and should be incorporated in all case documents.

The following addresses how to reach the compliance determination for athletics investigations and the similarities and differences between intercollegiate and interscholastic athletics investigations.

INTERCOLLEGIATE ATHLETICS

The Intercollegiate Athletics Policy Interpretation requires that OCR use an overall approach and review the total athletics program for intercollegiate athletics investigations. This means that if OCR receives a narrowly drawn complaint for intercollegiate athletics, OCR will investigate all 13 program components. However, the Policy Interpretation does permit separate investigations and findings for three major areas, specifically:

1) athletic financial assistance - § 106.37(c)
2) accommodation of athletics interests and abilities - § 106.41(c)(1)
3) other athletic benefits and opportunities - § 106.41(c); (this encompasses § 106.41(c)(2)-(10), support services and recruitment)

An investigation may be limited to less than all three of these major areas where unique circumstances justify limiting a particular investigation to one or two of these major areas. Otherwise, the investigator should expect to investigate all 13 program components within these three major areas. Where all 13 program components are investigated, the findings should be separated into two major areas in the letter of findings, with interests and abilities incorporated into the findings for other athletic benefits and services. Thus, findings are issued for: 1) athletic financial assistance at § 106.37(c); and, 2) other athletic benefits and opportunities at § 106.41(c) (§ 106.41(c)(1-10), support services and recruitment). See the Model Letter of Findings at Tab C.

The overall approach requires a three step analysis:

1) The investigator should evaluate each factor within each program component. This requires the investigator to obtain and analyze information under each of the factors listed in the Policy Interpretation for a particular program component. The investigator should determine for each factor whether the benefits or services provided favor the men's program, favor the women's program, are the same or, if different, have a negative affect on students of one sex.

2) Once each of the factors within a program component have been analyzed, the investigator then makes a determination for that program component. If the same or similar benefits or services are provided for all students, then there are no differences that negatively affect students of one sex, that is, result in a "disparity." If, for example, some factors favor men, they may be "offset" by other factors favoring women. For factors favoring each sex to offset each other, they need to have the same relative impact within the particular program component (for example, not providing socks to a team is less significant than not providing uniforms). Thus, disparities need not necessarily be equal in number to offset each other, such as two factors favoring men are offset by two factors favoring women. Where factors favor students of one sex and are not offset by the services or benefits provided to students of the other sex under other factors, then a disparity exists for the program component, in effect, a finding that the benefits and services provided to one sex are not equivalent to those provided to the other sex. Equivalent is defined in the Policy Interpretation as equal or equal in effect.

3) Once the determination has been made for each program component, the investigator then analyzes all of the program components together to determine if there is compliance with the regulation. The investigator considers the number and significance of disparities in the program components in which nonequivalence was found and compares the disparities favoring the men's program with those disparities favoring the women's program. If these disparities offset each other, a finding of compliance is made. If the disparities are greater for one sex than the other and the difference results in lack of equal opportunity for one sex, then an overall finding of noncompliance is made.

In drafting the letter of findings, the LOF should be organized to address athletic scholarships, and then other benefits and opportunities beginning with interests and abilities. A discussion of athletic scholarships or interests and abilities necessarily involves a description of the overall athletics program. The overall program should be described at the beginning of the LOF, and incorporating this program description in the discussion of either athletic scholarships or interests and abilities avoids duplication. SEE the model LOF at Tab C for a more detailed description of presenting findings.

INTERSCHOLASTIC ATHLETICS

The Policy Interpretation does not mandate that the overall approach be used for interscholastic athletics. Interscholastic athletics investigations may be limited to those program components in which a complainant has made allegations. Interscholastic athletics programs usually provide benefits and services in, at most, 9 of the program components, and complaints in interscholastic athletics programs tend to be more narrow in scope. In addition, because of the size of many school districts, this practical approach to interscholastic athletics investigations enables OCR to use its resources more efficiently.

Interscholastic athletics investigations may not be limited to anything less than the program component. For example, if a complainant alleges noncompliance for the scheduling of game times, the investigation must address all five factors in the program component of scheduling of games and practice time, in effect, the number of games, the number and length of practices, the time of day for games, the time of day for practices, and pre-season and post-season competitive opportunities. The investigation may not be limited to just game times. In addition, if during the investigation there is evidence to suggest that a disparity in a program component being investigated is the result of an apparent disparity in another program component that is not being investigated, then that other program component should be investigated. Furthermore, additional investigation may be necessary. OCR may find a violation based on a limited investigation where inequality in the athletics program is demonstrated. However, if the school district believes that it provides equal athletic opportunity overall, it may rebut OCR's determination on that basis. In the "Cautions" portion of each manual section addressing a program component, the investigator is instructed to request a justification for any apparent disparity. Thus, the investigator must determine whether the school district has any justification for apparent disparities found in the program components investigated. In any rebuttal, the school district must make a showing that the disparities disadvantaging one sex found in the program component(s) which OCR investigated may be offset by advantages

favoring that sex in program component(s) not investigated, and this results in equal athletic opportunity. In this example, OCR must investigate the program component(s) which the school district believes offset those apparent disparities found by OCR.

Once a determination is made regarding the program component, findings are issued for each specific program component, for example, a violation, disparity, or no violation for **§ 106.41(c)(3) regarding scheduling of games and practice time. Interscholastic athletics investigations usually do not involve a comparison of whether program components favoring athletes of one sex may be offset by program components favoring athletes of the other sex as in step 3 of the analysis for intercollegiate athletics investigations noted above.** However, in situations where, either through a complaint or a compliance review, the entire interscholastic athletics program is being investigated, the overall approach, as described above for intercollegiate athletics, may be used where warranted. Also, OCR frequently finds a disparity for a particular program component in an interscholastic athletics investigation that is not significant enough by itself to cite a violation. Where more than one program component involves a disparity not significant enough to constitute a violation, the combined disparities for these program components may result in a denial of equal opportunity when viewed overall, and thus, a violation. In this situation, the cited violation would be for § 106.41(c). In unusual situations, a disparity within a particular program component may be, by itself, so substantial as to constitute a violation of the regulation. SEE the section below labeled "Disparities" for additional explanation.

Intercollegiate athletics investigations usually involve investigation of one institution. Interscholastic athletics investigations may involve investigation of all high schools, and occasionally the junior high schools, in an entire school district, and school districts may range in size from one to several hundred schools. Generally, methods for selecting the schools to be investigated for interscholastic athletics complaints are the same methods used for other elementary and secondary investigations. The regional offices may also use the following guidelines. Where school districts are of a manageable size (what constitutes manageable size will vary for each regional office depending on the region's available resources at the time the investigation is scheduled), the regional office should issue a data request to each school in the school district (this means each high school in the district where the complaint or compliance review concerns only high school level athletics programs). Once the regional office receives responses to the data requests, OCR's methodology for compliance reviews should be employed. Basically, the regional office should investigate those schools where responses to the data requests indicate compliance problems. For example, if a school district has 28 high schools and responses to the data requests sent to all 28 high schools indicate compliance problems at 7 of those schools, then the regional office should investigate those 7 schools. At the largest school districts (for example, in the cities of Los Angeles, New York, etc.), the regional office may select a random sample of schools, send data requests to that random sample, and investigate those schools where the data requests indicate compliance problems. If the region encounters difficulty in identifying schools to investigate, either through random sampling or the quality of the data request responses, the regional offices may consult with the complainant, or other sources considered knowledgeable, to identify which schools to investigate. Once the investigations are completed, if even one school is found in violation of the regulation, then the school district is found in violation. The remedy for a violation should reflect assurances of compliance from all schools in the district, including those that were not investigated based on the random sampling. These approaches noted here for identifying which schools to investigate in a school district are recommended, but the regional offices have final discretion in determining which schools are to be investigated.

It is highly unlikely that interscholastic athletics investigations will involve four of the 13 program components, specifically:

1) tutoring - § 106.41(c)(5) and (6);
2) housing and dining facilities and services - § 106.41(c)(9);
3) recruitment of student athletes - § 106.41(c); and,
4) athletic financial assistance - § 106.37(c).

However, on rare occasions, OCR regional staff have discovered unique aspects of interscholastic athletics programs involving each of these program components (often at private schools). Therefore, the investigator should not assume automatically that benefits under these four program components are not provided. Instead, the investigator should determine when necessary, based on responses to general data request questions, if any of these four program components need be investigated at a particular institution.

DISPARITIES

A disparity is a difference, on the basis of sex, in benefits or services, that has a **negative impact** on athletes of one sex when compared with benefits or services available to athletes of the other sex. A disparity does not mean that benefits and services are merely different. A disparity may vary considerably in significance, which results in occasional references to "*significant*" disparities. A "*significant*" disparity refers to a single disparity that is so substantial as to deny equal opportunity in athletics to students of one sex. A disparity that is not significant, but nevertheless a disparity, becomes evidence to be evaluated along with other disparities that may be evident. There is no rule or number of disparities that when reached constitutes a violation. Generally, the determination is whether, in reviewing the program as a whole, the disparities add up to a denial of equal opportunity to athletes of one sex. This determination can be difficult, but generally, if a pattern of discrimination is evident, if it appears that athletes of one sex are accorded "second class" status, then a violation is likely.

Permissible Differences

Some differences in benefits and services that appear to be on the basis of sex and thus, are apparent disparities, may actually be permissible differences as provided by the Policy Interpretation. Title IX does not require institutions to offer athletics programs nor, if an athletics program is offered, is there any requirement that the program be particularly good or that one team be provided what another team is provided. Institutions are not required to offer the same sports or even the same number of sports to men and women. Simply, OCR's focus is the comparison of benefits and services provided to athletes of each sex.

Institutions are required to provide equal opportunity to participate and to equally effectively accommodate the athletics interests and abilities of men and women. (SEE the section addressing the interests and abilities program component.) The unique aspects of particular sports may justify differences that appear to be disparities. These differences may result from nondiscriminatory factors, including: rules of play; nature/replacement of equipment; rates of injury resulting from participation; nature of facilities required for competition, and the maintenance and upkeep requirements for those facilities. The Policy Interpretation states: "For the most part, differences involving such factors will occur in programs offering football, and consequently these differences will favor men." Other examples noted by the Policy Interpretation include: annual fluctuations in team needs may result in large disparities in recruitment activity for any particular year; sports that draw traditionally large crowds may result in increased management costs; affirmative action measures to overcome past discrimination are authorized under § 106.3(b) and may result in apparent disparities; and, a particular coach may possess such an outstanding record of achievement as to justify an abnormally high salary, which would result in apparent disparities in coaches' compensation. Because of the number and variety of justifiable differences, the investigator is alerted, in each section of the manual addressing a program component, to determine whether nondiscriminatory factors may explain any differences in benefits or services provided to men and women.

ATHLETIC ASSOCIATIONS

The investigator should attempt to become knowledgeable of the general requirements of the National Collegiate Athletic Association (NCAA) and the National Association of Intercollegiate Athletics (NAIA), especially when assigned the investigation of a large university. Knowledge of these associations' rules will be particularly useful for the program components of recruitment, accommodation of interests and abilities, and athletic financial assistance. Each regional office should have a copy of the current NCAA and NAIA manuals on file. Many postsecondary institutions are members of one of these associations and the associations' rules have changed considerably in the last ten years. Depending on the division level in which an institution competes (there are, basically, divisions I, II, and III), the association rules dictate a minimum number of teams that must be offered to men and women, what sports are to be offered and the level of competition that must be maintained. A secondary result of these associations' rules is that many institutions are now more likely to comply with Title IX requirements for accommodation of interests and abilities and some other program components as well. In addition to membership in national organizations, universities and colleges may also be members of state or regional athletics associations that may impose additional rules on institution members.

Interscholastic athletics programs are usually part of district athletics associations which are in turn part of state athletics organizations. Thus, it would be useful for the regional offices to obtain the manual for the state athletic association for each state in its region. If the investigator discovers a discriminatory practice followed by an interscholastic athletics program, or an intercollegiate athletics program, that is in accordance with athletics association rules, the investigator will be alerted to the possibility that many institutions may be in violation of the regulation. As provided at § 106.6(c) of the Title IX regulation, an institution's obligation to comply with the regulation "is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league[.]"

The investigator cannot be expected to be familiar with all of the regulations of various athletics associations. However, it will assist the investigator to be aware that institutions may be following certain athletics associations' rules and procedures, and that these rules and procedures may have the effect of encouraging or discouraging an institution in complying with the Title IX regulation.

PROGRAM COMPONENTS

ATHLETIC FINANCIAL ASSISTANCE

34 C.F.R. § 106.37(c)

It is highly unlikely that an elementary or secondary institution will provide athletic financial assistance. Therefore, an interscholastic athletics investigation is not likely to include this program component.

The Title IX regulation at 34 C.F.R. § 106.37(c) provides: "(Institutions) must provide reasonable opportunities for (athletic scholarship awards) for members of each sex in proportion to the number of students of each sex participating in . . . intercollegiate athletics."

The Policy Interpretation states that OCR will "examine compliance with this provision of the regulation primarily by means of a financial comparison to determine whether proportionately equal amounts of financial assistance (scholarship aid) are available to men's and women's athletics programs. (OCR) will measure compliance with this standard by dividing the amounts of aid available for the members of each sex by the numbers of male or female participants in the athletic program and comparing the results. Institutions may be found in compliance if this comparison results in substantially equal amounts or if a resulting disparity can be explained by adjustments to take into account legitimate, nondiscriminatory factors."

The Policy Interpretation defines participants as those athletes:

a. Who are receiving the institutionally-sponsored support normally provided to athletes competing at the institution involved, e.g., coaching, equipment, medical and training room services, on a regular basis during a sport's season; and
b. Who are participating in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
c. Who are listed on the eligibility or squad lists maintained for each sport, or
d. Who, because of injury, cannot meet a, b, or c above but continue to receive financial aid on the basis of athletic ability.

INFORMATION TO COLLECT

Data Request

REQUEST the following information through the data request. (SEE sample data request at Tab B.)

1. Copies of the athletic financial assistance budgets and expenditures for the men's and women's programs, by team, for the current year and the previous year

2. Copies of written policies, procedures, and criteria for awarding athletic financial assistance to male and female athletes, if available; a general description will suffice if written policies are not available

3. A list of all men's and women's intercollegiate teams and all coed intercollegiate teams and the division level at which each team competes; also, copies of the eligibility or squad lists (specifically, the NCAA, NAIA, or NJCAA, etc. squad lists, if available) for the current year and previous year

4. A description of what expenses are covered by a full athletic scholarship for men and women and the dollar value of each of these expenses, including the cost of in-state and out-of-state tuition

5. A list of each athlete who received or receives athletic financial assistance, the team on which the athlete competes, the amount of aid that was awarded to each athlete, and what expenses the award covered, for example,-tuition, room and board, etc; provide the dollar amount for each expense, including in-state and out-of-state tuition

6. Copies of the policies, practices, and criteria for determining the amount and type of need-based or merit-based financial assistance for athletes (in effect, grants, loans, work-study, academic scholarships) only if such policies, practices, or criteria are different for athletes as compared to the general student body

DETERMINE the total number of participants for each team, the total number of female and male participants in the athletics program, and the total number of athletes in the athletics program. DETERMINE what proportion of athletes in the athletics program are women and what proportion of athletes in the program are men. TOTAL the athletic financial assistance expenditures for each team, the total expenditures for athletes of each sex, and the total expenditures for the athletics program as a whole. DETERMINE what proportion of the available athletic financial assistance is awarded to women and what proportion is awarded to men. COMPARE the proportion of athletic financial assistance awarded to female athletes with the proportion of female athletes in the athletics program. This proportion should be the same absent a nondiscriminatory justification for any differences. (For example, if 45% of the participants in the athletics program are women, then female athletes should receive 45% of the available athletic financial assistance.) COMPARE the proportion of athletic financial assistance awarded to male athletes with the proportion of male athletes in the athletics program. This proportion should be the same absent a nondiscriminatory justification for any differences. (For example, if 55% of the participants in the athletics program are men, then male athletes should receive 55% of the available athletic financial assistance.) SEE the example on pages 18 and 19 for an explanation of these calculations.

If there are no differences in the policies, practices, or criteria for determining the award of need-based or merit-based financial assistance to athletes, as compared to the general student body, and no allegations that there are differences, or that need-based or merit-based aid to athletes is awarded on the basis of sex, no further investigation is necessary regarding non-athletic financial assistance to athletes. If there are allegations that need-based or merit-based aid to athletes is awarded differently to athletes than the general student body or on the basis of sex, determine the criteria for awarding each type of aid (Pell Grants, Supplemental Educational Opportunity Grants, College Work-Study, Loans, Academic Scholarships, etc.) and the proportion of members of each sex receiving each type of need-based or merit-based aid.

-- Athletic Financial Assistance --

On-site

Interview administrators directly involved with the policies and awards of athletic financial assistance and all head coaches. It may be useful to interview the athletic director and the chief fiscal officer for the athletics program together.

If pre-on-site data indicates that athletic financial assistance awards are substantially proportionate, it may appear that further investigation is unnecessary. However, OCR investigative experience indicates that participant counts provided in response to data requests are often inaccurate. Therefore, the investigator should interview administrators and coaches.

Interview Questions

Administrators:

1. Clarify any questions regarding the policies, procedures, and criteria for awarding athletic financial assistance to male and female athletes.

2. Determine the reasons for any substantial differences between budgets and expenditures for a team or teams of either sex. If the expenditures were greater, determine the source of the additional funds (the source of the additional funds does not affect athletic financial assistance but, rather, may affect recruitment opportunities; the information is easier to obtain here). If the expenditures were substantially less than the budget, determine the reasons why the money was not spent.

3. Determine whether budgets and expenditures information provided in response to the data request includes all athletic financial assistance and is completely accurate. If not, determine accurate amounts. (In addition to tuition, room, board, and books, athletic financial assistance may also include summer school costs, course related fees, or other special fees. OCR investigative experience indicates that these extra costs and fees are often paid by institutions from separate budgets and, therefore, institutions often do not include these costs in responding to data requests for scholarship information. OCR must obtain and include this information in its calculations of athletic financial assistance awards.)

4. If pre-on-site comparisons reveal a difference in awards based on sex, ask why there is a disparity. (Answers must be specific.)

5. On what basis are the amounts of financial assistance budgeted for each team?

Coaches:

1. Ask the coach whether he or she has a "cut policy," in effect, does the coach allow tryouts and then eliminate individuals until a certain number is reached?

2. Ask the coach to take the list and verify the participants. (Define participants as anyone who participated in competition, received athletic financial assistance but did not participate, or practiced with the team and was eligible for competition but did not participate.)

3. Ask the coach to eliminate any names on the list of people who quit the team or who were cut prior to the first competitive event. (Provide a copy of the list for each year and have the coaches make changes directly on the list, if necessary.)

4. Determine how many full scholarships are available to their team (this information is not necessary to determine compliance but is useful in negotiations).

5. If their team is not budgeted enough funds to award the maximum athletic financial assistance awards allowed by their athletics conference or national organization, determine the reason.

6. If their team did not expend the amount of athletic financial assistance budgeted for the team, determine the reason.

7. If their team substantially exceeded its budget for athletic financial assistance, determine the source of funds, if known, and the procedure used for obtaining additional funds.

ANALYSIS

COMPARE the policies, procedures, and criteria for awarding athletic financial assistance to male and female athletes. DETERMINE any differences.

REVIEW and READJUST the participant count based on interviews with the coaches. Participants who participate on more than one team are to be counted only once. (The LOF should include, perhaps as an appendix, a participant count showing the total number of participants of each sex for each team for each year.)

REVIEW and READJUST the totals for the athletic financial assistance awarded to each team and to each sex based on the information obtained in the interviews.

DETERMINE if the proportion of athletic financial assistance awarded to male and female athletes is substantially proportionate to the participation rates of men and women in the athletics program. CONDUCT a "Z" test and "T" test to determine whether any differences in the proportion of aid or average awards are statistically significant and, thereby, constitute a violation, absent nondiscriminatory justifications for any differences. SEE Tab D for instructions on conducting the "Z" test and the "T" test.

SEE the model letter of findings at Tab C for recommendations on presenting the information obtained regarding athletic financial assistance.

Athletic Financial Assistance Example:

Determine the total number of participants on each team and the total amount of financial assistance for each team, and total these amounts. For example:

Women's Program

Team	Participants	Athletic Scholarship Aid
Basketball	12	$ 18,000
Softball	16	10,000
Volleyball	13	16,000
Soccer	20	10,000
Swimming	12	16,000
Track	20	16,000
Gymnastics	8	2,000
7 teams	101	88,000

Men's Program

Team	Participants	Athletic Scholarship Aid
Basketball	15	$ 30,000
Baseball	22	20,000
Football	80	120,000
Soccer	22	12,000
Swimming	14	20,000
Track	20	20,000
Gymnastics	8	2,000
Cross Country	8	5,000
Golf	8	1,000
9 teams	197	230,000

Athletic Financial Assistance Example (continued)

Determine the proportion of athletes that are women and the proportion that are men, and determine the proportion of aid awarded to each program. For example:

1. 197 Men + 101 Women = 298 total participants in athletics program

2. $\frac{197}{298}$ = 66.11% male participants (approximately 66%) $\frac{101}{298}$ = 33.89% female participants (approximately 34%)

3. $ 230,000 (Aid to Men) + $ 88,000 (Aid to Women) = $ 318,000 Total Aid

4. $\frac{230{,}000}{318{,}000}$ = 72.33% Aid to Men (approximately 72%) $\frac{88{,}000}{318{,}000}$ = 27.67% Aid to Women (approximately 28%)

The proportion of women participating in the athletics program (34%) should equal the proportion of aid awarded to women (28%), and the proportion of men participating in the athletics program (66%) should equal the proportion of aid awarded to men (72%). Since these figures are not equal and there is a 6% difference (between 34% compared to 28% for women, and between 66% compared to 72% for men), the "Z" test and "T" test must be conducted to determine whether the proportions are "substantially equal" in accordance with the Policy Interpretation and, thereby, in compliance with 34 C.F.R. § 106.37(c) of the Title IX regulation regarding athletic scholarships. SEE Tab D.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences in men's and women's athletics programs. Ask the appropriate institution representative for an explanation of any disparities found.

In some cases, particularly in intercollegiate athletics, recipients will provide both squad lists and eligibility lists in response to OCR's data request, for example, NCAA squad lists and regional conference eligibility lists. These lists will usually conflict. The conflict exists because NCAA squad lists are required to be completed on the first day an individual practices; conference eligibility lists are usually not required to be compiled until sometime just prior to the team's first competitive event. The result is that some names appearing on the NCAA squad lists will not appear on the conference eligibility lists. In order to eliminate conflicts and obtain an accurate participant count, the investigator should determine when the conflicting lists were compiled and for what purpose before interviewing the head coaches, if possible. If this cannot be reasonably accomplished before the on-site investigation, it should be done at the opening conference. The athletic director should know when a particular list was compiled and its purpose. The interviews with coaches should be used to clear up the differences.

– Athletic Financial Assistance –

The Policy Interpretation specifically notes two possible nondiscriminatory factors which may explain differences in athletic financial assistance awards. They are:

> . . . the higher costs of tuition for students from out-of-state may in some years be unevenly distributed between men's and women's programs. These differences will be considered nondiscriminatory if they are not the result of policies or practices which disproportionately limit the availability of out-of-state scholarships to either men or women.
>
> An institution may make reasonable professional decisions concerning the awards most appropriate for program development. For example, team development initially may require spreading scholarships over as much as a full generation (four years) of student athletes. This may result in the award of fewer scholarships in the first few years than would be necessary to create proportionality between male and female athletes.

OCR investigative experience indicates that both of these possible nondiscriminatory factors provided for by the Policy Interpretation are now somewhat dated. Differences in the award of athletic financial assistance based on out-of-state tuition can be the result of failure to provide equivalent recruitment opportunities for male and female athletes, and thus, may be based on disparities in the program component of recruitment. Since differences in out-of-state tuition costs are often "the result of policies or practices which disproportionately limit the availability of out-of-state scholarships to either men or women" and are, therefore, not permitted, the justification of out-of-state tuition costs being responsible for differences in scholarship awards should be carefully investigated. A disparity in recruitment of student athletes may not be used to justify a disparity in athletic financial assistance.

OCR investigative experience indicates that during initial development, few teams are composed completely of students in the same year, for example, the freshman year of college. If all athletes on a team are freshmen, the institution might choose not to award all available scholarships and reserve certain awards for the following years. However, where a new team has athletes in all years of the four years of college, as most teams do, such professional decisions are less reasonable or likely. Therefore, where an institution chooses to limit the award of scholarship funds based on "reasonable professional decisions," and this negatively affects athletes of one sex, this justification should be carefully investigated. Institution representatives should be asked to be very specific in clarifying why the scholarships are not currently awarded and to specify when the scholarships will be awarded. If the explanation is not satisfactory, a violation is possible.

EFFECTIVE ACCOMMODATION OF STUDENT INTERESTS AND ABILITIES

34 C.F.R. § 106.41(c)(1)

The Title IX regulation requires institutions that offer athletics programs to accommodate effectively the interests and abilities of students to the extent necessary to provide equal opportunity in the selection of sports and levels of competition available to members of both sexes.

The Policy Interpretation notes several considerations in determining effective accommodation of student interests and abilities. Many of these considerations are addressed below under "Cautions." The basic determination for this program component relies on a two part analysis; in effect, the investigation involves obtaining and analyzing information regarding: 1) equal opportunities to compete, and 2) levels of competition (for intercollegiate athletics, "levels of competition" refers primarily to the quality of competition as evidenced by whether a team competes against other teams at the same division level, and secondarily, team levels such as varsity and junior varsity; for interscholastic athletics, "levels of competition" refers to team levels, such as varsity, junior varsity, and freshman teams). In effectively accommodating the interests and abilities of male and female athletes, institutions must provide both opportunities for individuals of each sex to participate in intercollegiate or interscholastic[1] competition, and for athletes of each sex to have competitive team schedules which equally reflect their abilities.

The Policy Interpretation outlines three factors which may be considered consecutively to assess the opportunity for individuals of both sexes to compete in athletics programs.

1. Whether intercollegiate [or interscholastic] level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments.

2. Where the members of one sex have been and are underrepresented among intercollegiate [or interscholastic] athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of that sex.

3. Where the members of one sex are underrepresented among intercollegiate [or interscholastic] athletes, and the institution cannot show a continuing practice of program expansion such as that cited above, whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.

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[1] The Policy Interpretation is intended primarily to provide guidance for intercollegiate athletics programs. Much of this guidance also applies to interscholastic athletics. Throughout this program component section, where language of the Policy Interpretation is quoted or paraphrased, "interscholastic" is inserted in brackets where the same guidance or instructions apply.

The Policy Interpretation outlines two factors which also must be considered to assess whether the quality of competition provided to male and female athletes equally reflects their abilities.

1. Whether the competitive schedules for men's and women's teams, on a program-wide basis, afford proportionately similar numbers of male and female athletes equivalently advanced competitive opportunities.

2. Whether the institution can demonstrate a history and continuing practice of upgrading the competitive opportunities available to the historically disadvantaged sex as warranted by developing abilities among the athletes of that sex.

INFORMATION TO COLLECT

Much of the information to be collected is the same for both secondary and postsecondary institutions. However, where the requests for data or the analysis would be different for interscholastic and intercollegiate athletics programs, separate entries are made for interscholastic and intercollegiate athletics.

Data Request

REQUEST the following information through the data request. (SEE sample data request at Tab B.)

1. Copies of written policies, procedures, and criteria for determining how and whether sports will be added to the men's and women's athletic programs; include copies of any reports discussing the growth of the athletics program, and copies of any surveys or assessments conducted of students' athletic interests and abilities, the date(s) and results of the surveys or assessments

2. A list of all men's and women's teams (varsity, junior varsity, freshman, etc.) and all coed teams, including the division level at which each team competes and the date (month and year) each team began competition; also, a copy of the eligibility or squad lists for the current year and the previous year for men and women for each team

3. The athletic association in which the men's and women's programs are members

4. A current list of club and intramural sports and the number of participants, by sex, participating in each club and intramural sport

5. **Intercollegiate Programs:** The number of full-time undergraduate students, by sex, for the last two full semesters or quarters

   Interscholastic Programs: The total number of students currently enrolled

6. The competitive schedules for each team (request this only if scheduling information is not obtained under the data request for another program component; in addition, be prepared to check, where appropriate, the NCAA or similar directory for division level of opponents)

RECORD this information on the interests and abilities chart.

On-site

Interview appropriate administrators, coaches, and participants. It may be necessary to identify someone with a knowledge of the sports history, with respect to the origin and development of teams, at the institution.

Interview Questions

Administrators:

1. Verify the dates the current men's and women's teams entered intercollegiate [or interscholastic] competition, and determine the origin of these teams (e.g., were the men's sports previously club sports? Did the teams begin through the interest of a faculty member who desired to teach the sport?).

2. Obtain clarification, if necessary, on the practices and policies regarding determining whether sports will be added. Are any to be added? If so, which ones? What are the reasons for the new additions? Have there been any unsuccessful attempts to add sports? Why were the attempts unsuccessful?

3. Have any sports, men's or women's, ever been eliminated? If so, which sports, and when? (If recent, obtain the number of participants affected.)

4. Does the current program fully and effectively accommodate the interests and abilities of participants? If so, why? Are women or men permitted to try out for teams offered to the other sex? If so, have any women done so and made the men's teams?

5. Determine if interests and abilities have ever been surveyed. If so, when? What were the survey results? Obtain a copy of all related documents that were not provided through the pre-on-site data request.

Coaches:

6. Using the appropriate eligibility or squad list, have the coach verify the actual number of participants.

7. Are you aware of any other sport in which there might be interest but which is not currently being offered? If so, what sport? Have there been any unsuccessful attempts to add sports? Why were the attempts unsuccessful?

8. Do you believe that the interests and abilities of both sexes are being fully and effectively accommodated? Why?

9. Is the level of competition appropriate for the team? Determine the division level of each opponent, if unable to obtain information from NCAA or other directory sources. (If the program component of scheduling is being investigated, do not include this question here. The interview questions for coaches and athletes under the scheduling program component address this issue. See the manual section addressing Scheduling of Games and Practice Time.)

10. Coaches of coed teams only: Do women play regularly in season competition?

Athletes:

11. Are you aware of any other sport in which there might be interest but which is not currently being offered? If so, what sport? Have there been any unsuccessful attempts to add sports? Why were the attempts unsuccessful?

12. What is your opinion of the quality of your competitive schedule? (Ask this question under scheduling, and not here, when the program component of scheduling is included in the investigation.)

RECORD pertinent information on the interests and abilities chart.

ANALYSIS

Competitive Opportunities

Step One: COMPARE the number of male and female participants in the athletics program with the number of full-time undergraduate students (intercollegiate) or number of students (interscholastic). If the results are substantially proportionate (for example, if the enrollment is 52% male and 48% female, then, ideally, about 52% of the participants in the athletics program should be male and 48% female), the recipient is effectively accommodating the interests and abilities of both sexes. If the calculation of enrollment to participation in the athletics program is not substantially proportionate, then go to step two.

There is no set ratio that constitutes "substantially proportionate" or that, when not met, results in a disparity or a violation. All factors for this program component, and any justifications for differences offered by the institution, must be considered before a finding is made.

Step Two: DETERMINE when each men's and women's team began intercollegiate [or interscholastic] competition and the origin of the sport. If any men's or women's sports have been eliminated, discuss the reasons they were eliminated and determine the number of participants that were on each team. DETERMINE the percentage of loss to each program. If sports have recently been added, INDICATE the number of participants affected and the percentage of gain to each program. DETERMINE whether there have been unsuccessful attempts to add teams, and why the attempts were unsuccessful. VERIFY plans for adding sports and whether the written policies, procedures, and criteria for determining whether sports will be added are discriminatory in language or effect. With these facts, DETERMINE whether the institution has shown a history and continuing practice of program expansion which has been demonstrably responsive to the developing interests and abilities of the underrepresented sex. If so, it is not necessary to consider step three. If not, go to step three.

Step Three: Once step three is reached, the determination for this program component is complex and often difficult and may involve additional investigation. The participation ratios are often not proportionate to the enrollment ratios for members of each sex, and a history of program expansion for the underrepresented sex may not be apparent, thus leading to the question of whether the current program equally effectively accommodates student interests and abilities, step three of the analysis for competitive opportunities. If the institution has not conducted a survey or used another method for determining interests and abilities and cannot demonstrate that the current program equally effectively accommodates interests and abilities, then OCR must determine to what degree the current program accommodates interests and abilities. The investigator should REVIEW whether the institution failed to accommodate "expressed interest," for example, athletes of the underrepresented sex participating in a club sport express interest in intercollegiate or interscholastic competition or sufficient numbers of individuals to form a team request that a sport be offered. If so, the recipient may be in violation (review carefully the Cautions section below before determining a violation). In addition, the investigator may consider reviewing other programs indicative of interests and abilities, for example, club and intramural sports; sports programs at "feeder" schools; community and regional sports programs; and physical education classes. If this review demonstrates that there are sufficient interests and abilities in certain sports that are not offered by the institution to students of the underrepresented sex, then the recipient may be in violation (again, review carefully the Cautions section below before determining a violation). Finally, the investigator should also REVIEW how the recipient met the developing interests and abilities in the program of the "overrepresented" sex.

Once this additional review has been completed, DETERMINE whether the current program equally effectively accommodates the current interests and abilities of male and female athletes. NOTE whether a survey or other method of assessing interests and abilities has been conducted. If so, provide the date and the results. If surveys or other assessment methods are to be conducted periodically, DETERMINE how these are to be conducted. If an assessment of interests and abilities has not been conducted, DETERMINE the origin of men's and women's sports and whatever method of determining interests and abilities was used. DETERMINE if the method used is effective. DETERMINE if the interests and abilities of both sexes are accommodated equally effectively.

Levels of Competition

DETERMINE the quality of competitive opportunities provided to each sex. CONSIDER two factors.

1) COMPARE the number of competitive events for each team at the institution's declared competitive level. USE the attached chart for this comparison. DETERMINE the overall percentage of men's and women's events below the declared division level or classification. If this analysis results in relative equivalence, then the second factor, as discussed below, need not be considered. If there is a significant difference in the number of competitive events for men and women at the institution's declared competitive level, ASK the appropriate institution representative for an explanation. If there is any concern that the explanation is not satisfactory, consider the second factor.

2) DETERMINE whether the recipient can demonstrate a history and continuing practice of upgrading the competitive opportunities available to the historically disadvantaged sex. This will generally be women. Most state, regional, and/or national athletic organizations require that its members compete at the same division or classification level and member institutions will, therefore, comply with this factor. For those institutions with men's or women's programs that are not classified at the same level of competition and have been determined, through an assessment of the first factor, to provide a lower quality of competitive opportunities to athletes of one sex, DETERMINE if there is a history and continuing practice of upgrading competitive opportunities for the disadvantaged sex. This determination is based on the interviews with coaches, participants and, where appropriate, administrator(s) concerning their assessment of the quality of their schedules, the opportunities provided for post-season competition, whether there were opportunities to compete against teams with state, regional, or national ranking, whether the quality of their schedules has improved and will continue to improve, and other relevant factors.

DETERMINE whether any differences in the opportunity to compete or the levels of competition provided to men and women result in a disparity and whether those differences constitute a significant disparity. If the disparity is significant enough to constitute a violation, a separate finding may be made, where appropriate, for the accommodation of student interests and abilities at § 106.41(c)(1). If the disparity is not significant enough to constitute a violation, then the disparity is evidence to be considered with the determinations for other program components that may be investigated. CAREFULLY REVIEW the "Cautions" section below PRIOR to issuing any violation findings. SEE the section Approach to Athletics Investigations for additional clarification on issuing separate findings.

SEE the model LOF at Tab C for recommendations on presenting the information obtained regarding accommodation of interests and abilities.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences in men's and women's athletics programs. Ask the appropriate institution representative for an explanation of any disparities found.

A survey or assessment of interests and abilities is not required by the Title IX regulation or the Policy Interpretation. A survey or assessment may be required as a part of a remedy when OCR has concluded that an institution's current program does not equally effectively accommodate the interests and abilities of students. There are various other acceptable methods that an institution may use to determine athletic interests and abilities. These other methods involve reviewing the same programs noted above, in effect, club, intramural, feeder school, community, regional, physical education, and other programs. A survey is mentioned most often since it is usually the simplest method for the institution and OCR to determine interests and abilities.

The Title IX regulation at 34 C.F.R. § 106.41(b) differentiates between contact and non-contact sports. The Policy Interpretation clarifies that where an institution offers a team in a contact sport for members of one sex, it must offer a team for members of the other sex when: 1) opportunities for members of the excluded sex have historically been limited, and 2) there is sufficient interest and ability to sustain a viable team and a reasonable expectation of intercollegiate [or interscholastic] competition.

For non-contact sports, where a team is offered to students of one sex, a team must be offered to members of the excluded sex where: 1) opportunities for members of the excluded sex have historically been limited; 2) there is sufficient interest and ability to sustain a viable team and reasonable expectation of intercollegiate [or interscholastic] competition for that team; and, 3) members of the excluded sex do not possess sufficient skill to be selected for a single integrated team or compete actively on such a team if selected.

Institutions are not required to upgrade teams to intercollegiate [or interscholastic] status or otherwise develop intercollegiate [or interscholastic] sports absent a reasonable expectation that intercollegiate [or interscholastic] competition in that sport will be available within the institution's normal competitive regions. Institutions may be required by the Title IX regulation to actively encourage the development of such competition, however, when overall athletic opportunities within that region have been historically limited for the members of one sex.

OCR investigative experience indicates that where budget restrictions have led a recipient to eliminate sports previously offered, there is frequently a compliance problem with this program component. The tendency is for institutions to eliminate a sport previously offered to women who are already underrepresented in the institutions' athletics programs. The result has been that women are now more disadvantaged by the elimination of a women's team despite sufficient interest and ability to sustain a viable team. In this situation, the institution may well be in violation of this program component. In effect, the participation rates of men and women are not proportionate to their enrollment rates such that women are underrepresented in the athletics program, and the institution is not meeting expressed interests and abilities of female students. Therefore, the institution is not equally effectively accommodating the athletics interests and abilities of male and female students.

Interests and Abilities -- Summary Program Comparison

MEN'S PROGRAM TEAMS	NCAA Div. I	NCAA Div. II	NCAA Div. III	NAIA	NJCAA	Other	TOTALS	% of Competition Below Declared Division Level
WOMEN'S PROGRAM TEAMS								

SUMMARY

PROVISION OF EQUIPMENT AND SUPPLIES

34 C.F.R. § 106.41(c)(2)

The Policy Interpretation states: "Equipment and supplies include but are not limited to uniforms, other apparel, sport-specific equipment and supplies, instructional devices, and conditioning and weight training equipment." The Policy Interpretation lists five factors to be assessed in determining compliance: (1) quality, (2) amount, (3) suitability, (4) maintenance and replacement, and (5) availability of equipment and supplies.

The information for this program component should be categorized and reviewed as follows:

Types of Equipment and Supplies

1. UNIFORMS AND OTHER APPAREL:	includes practice and game uniforms, shoes, rain gear, warm-up suits (do not obtain, review, or analyze information on undergarments, e.g., athletic supporters, bras)
2. SPORT-SPECIFIC EQUIPMENT:	bats, hockey sticks, tennis rackets, equipment set up and taken down for practices, etc.; stationary equipment such as basketball hoops, tennis nets and soccer goals should not be considered as they are part of the facility and reviewed under provision of locker rooms, practice and competitive facilities at § 106.41(c)(7)
3. GENERAL EQUIPMENT:	ankle and wrist weights, water bottles, sweat bands, knee braces, etc.; major conditioning equipment - e.g., nautilus, whirlpool, universal - should be addressed under medical and training facilities and services at § 106.41(c)(8)

Assessment Factors for Equipment and Supplies

1. QUALITY - condition, durability, top-of-the-line or cut-rate; and

   SUITABILITY - regulation, officially sanctioned, does or does not meet rules or specifications for balls, rackets, uniforms, nets, gymnastics equipment, etc.

2. AMOUNT - number, i.e., too many, adequate, or too few bats, balls, shoes, uniforms, wrist weights, etc.; includes consideration of shared equipment, such as teams sharing warm-up suits, and any equipment provided by athletes; and

MAINTENANCE AND REPLACEMENT - maintenance personnel and services such as laundry service for uniforms, equipment storage, upkeep and repair, etc.; replacement - schedules for replacement of uniforms, shoes, bats, balls, etc., e.g., replaced semi-annually, annually, every two, three, four years, etc.

3. AVAILABILITY - amount of time equipment and supplies are accessible to athletes, e.g., always, not on Sundays, restricted to hours equipment rooms are open, etc.

INFORMATION TO COLLECT

Data Request

REQUEST budget information regarding the previous year's expenditures and the current year's budget for equipment and supplies in the pre-on-site data request. (SEE the sample data request at Tab B.)

On-site

INTERVIEW coaches and athletes from each team as to whether the equipment and supplies provided are adequate. If inadequate, determine specifics.

INTERVIEW athletic directors as necessary, particularly regarding budget information and expenditures.

INTERVIEW equipment managers as necessary, particularly regarding maintenance of equipment.

INSPECT the equipment and supplies provided to each team. This inspection should be conducted with an individual knowledgeable about the equipment such as the coach, athletic director, or equipment manager. DETERMINE where the equipment and supplies for each team are stored. NOTE the proximity of the storage area to the practice and competitive areas and the locker rooms. NOTE any inconsistencies between personal observation of the equipment and supplies and the opinions of coaches and participants, and ASK the appropriate individuals, before concluding the on-site investigation, about any conflicts.

Interview Questions

Coaches and Athletes:

1. What equipment and supplies are provided to the athletes (e.g., competitive and practice uniforms, warmups, shoes, socks, sport-specific and general equipment)?
2. Do the athletes furnish any equipment and/or supplies, or pay an equipment fee? If so, what?
3. What is the source of funding for the team's equipment and supplies? Do you have to sponsor or participate in fundraisers?

– Equipment and Supplies –

4. What is the quality of the equipment and supplies provided to the team (e.g., substandard, adequate, excellent)?

5. Is all of the equipment provided to the team "regulation?" (If not, what is provided?)

6. Is the equipment provided to the team appropriate for the sport? (If not, explain.)

7. Are there any problems with equipment and supplies? If so, be specific.

8. Verify the number of equipment or student managers and determine their specific responsibilities (e.g., handles equipment and supplies for practices and/or games, launders uniforms, orders new equipment, etc.).

9. What arrangements are made for laundering uniforms? (Include both practice and competitive uniforms; note problems.)

Coaches Only:

10. Is there a replacement schedule for uniforms or any other equipment and supplies? (If not, how is it determined when something must be replaced, e.g., shoes, uniforms, balls, etc.?)

11. When something must be replaced, what is the exact procedure for replacement?

12. Verify the location of the equipment storage and ask whether any storage problem exists. (This question is not necessary if it is obvious that no problem exists.)

13. Verify expenditures or budget and determine whether the amounts are adequate. (If not, why? How much more was needed? Was that amount requested? Why was any amount reduced?)

RECORD the information for each team. The equipment and supplies team chart may be used for recording this information.

ANALYSIS

DETERMINE the extent that equipment and supplies are provided for each team. Use the team chart for each team to record the assessments of coaches and athletes and any pertinent information based on the on-site inspection. In addition, any budget concerns evident through interviews with coaches or athletic directors or information provided in response to the data request may be noted on the chart for a particular team. SUMMARIZE the significant information provided at the bottom of the chart, especially any information affecting compliance.

– Equipment and Supplies –

COMPARE the extent to which men's teams are provided with equipment and supplies with the extent to which women's teams are provided with equipment and supplies. The equipment and supplies program comparison chart may be used to summarize pertinent or significant information for each team in the athletics program. SUMMARIZE any disparities at the bottom of the chart.

DETERMINE whether any differences result in a disparity and whether any disparity constitutes a significant disparity. SEE the section Approach to Athletics Investigations for a description of disparities and permissible differences.

SEE the model letter of findings at Tab C for recommendations on presenting the information obtained regarding equipment and supplies.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences based on the unique aspects of particular sports, and the Title IX regulation does not require equal expenditures for each team or program. See the section Approach to Athletics Investigations for a more detailed discussion of permissible nondiscriminatory differences. Ask the appropriate institution representative for an explanation of any disparities found.

A particular line of equipment may reflect the preference of the coach who may believe certain equipment is better even though it is not considered top-of-the-line.

The amount of sport specific equipment will often determine which teams reasonably need equipment managers. Sports such as football, baseball and field hockey are more likely to need equipment managers than sports such as basketball and cross country.

Expect that team size and the differences inherent in the nature of particular sports will often affect budgetary needs and equipment and supply needs.

The analysis of the budget information is important mainly when disparities are evident in the provision of equipment and supplies. If there are no disparities in the overall provision of equipment and supplies, then an in-depth analysis of budgetary information is unnecessary and budget information need not be included in the letter of findings.

Equipment and Supplies -- Team Chart

TEAM ______________________________

Number of Participants ______________________________

Equipment Provided TO Participants	
Equipment Provided BY Participants	
Quality and Suitability	
Amount, Maintenance, Replacement	
Availability	
Budget	**Previous Year:** **Current Year:**

SUMMARY ______________________________

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Equipment and Supplies -- Summary Program Comparison

MEN'S PROGRAM TEAMS	EQUIPMENT PROVIDED TO ATHLETES	EQUIPMENT PROVIDED BY ATHLETES	QUALITY & SUITABILITY	AMOUNT, MAINTENANCE, REPLACEMENT	AVAILABILITY	BUDGET
WOMEN'S PROGRAM TEAMS						

SUMMARY

SCHEDULING OF GAMES AND PRACTICE TIME

34 C.F.R. § 106.41(c)(3)

The Policy Interpretation lists the following five factors to be assessed in determining compliance:

1. number of competitive events per sport;
2. number and length of practice opportunities;
3. time of day competitive events are scheduled;
4. time of day practice opportunities are scheduled; and
5. opportunities to engage in available pre-season and post-season competition.

The season of sport and the length of season may also be a factor to be assessed depending upon the specific fact situation.[1]

INFORMATION TO COLLECT

Data Request

Most of the information necessary to the determination of compliance or non-compliance for scheduling of games and practice time may be obtained through the pre-on-site data request. Additional information may be obtained through interviews of coaches, athletes, and athletic directors. Scheduling is a program component where comparing men's and women's teams in the same sport is particularly useful since the "normal" number of competitive events varies greatly by sport. For example, the football team may average 10 regular season games while the baseball team may average as many as 60 regular season games.

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[1] This can be an intercollegiate athletics concern but tends to be more of a compliance problem in interscholastic athletics. Additionally, with the expansion of girls' and women's athletic programs, the season of sport and length of season are often determined by the district, state, or conference athletic association, and thus, are less likely to be a compliance problem now than in previous years. (Of course, where an association rule is discriminatory, membership in the association is not an acceptable defense for noncompliance with 34 C.F.R. § 106.41. See 34 C.F.R. § 106.6(c).) Consequently, this issue is addressed in the list of interview questions only. If participants and coaches indicate that the season of sport and length of season are not a problem, then it is not necessary to include this issue in the analysis or the letter of findings. Otherwise, if a problem is indicated, question coaches and participants as to the extent of the problem and incorporate this information in the analysis and letter of findings as warranted.

– Scheduling of Games and Practice Time –

REQUEST the following information through the data request. (SEE sample data request at Tab B.)

1. Copies of written policies, procedures, and criteria affecting scheduling of games, practices, pre-season and post-season competition

2. The competitive and practice schedules for each team including the date practice begins (ask for previous year schedules if current year schedules are not available)

3. A list of teams that competed in pre-season and post-season competition and any teams for which these opportunities were available but the teams did not compete

RECORD this information using the scheduling team chart and the scheduling program chart. The information that should be available in response to the data request questions is: number of games in regular season, number of pre-season and post-season events, which teams did not compete in pre-season and post-season competition when opportunities were available, days of the week games are played, times of day games are played, number of practice sessions per week, days practices are held, and time of day and length of practices. (Based on OCR experience, there may be difficulty obtaining complete practice schedules through the pre-on-site data request. Be prepared to request more complete information during the on-site interviews.) DETERMINE whether there are any differences in the number of games per sport, number and length of practice opportunities, time of day of competitive events, time of day of practices, and the teams competing in pre-season and post-season competition. In particular, COMPARE this information for men's and women's teams competing in the same or similar sports.

On-site

INTERVIEW coaches and athletes from each team regarding whether the scheduling of games and practice time is appropriate. INTERVIEW administrators and facilities managers regarding scheduling decisions. It is useful to take a copy of the team schedules to the interview so that the interviewee can refer to the schedule if necessary.

Interview Questions

Administrators/Facilities Managers:

1. What is your role in the scheduling of games and practice time?

2. Do certain teams have priority in scheduling? If so, which ones? Are you responsible for resolving scheduling conflicts, and/or reorganizing schedules during inclement weather?

– Scheduling of Games and Practice Time –

Coaches and Athletes:

3. How many regular season games do you play? How many pre-season and post-season games? Is the number of regular season events adequate for the team's division level?[2] If one team has more regular season games than the same sport team for students of the other sex, determine why.

4. Verify the first day of practice, the time of day and the days of week of practices.

5. Are practice and game schedules convenient? Do they conflict with classes, meal times, other scheduled activities, etc.?

6. What days of the week and what times of day are considered "prime time" for games? How often does your team compete during prime time? Do game schedules permit reasonable opportunities to compete before an audience?

7. Are any games scheduled against institutions outside the division level, what is the division level, and why are the games scheduled?

8. How would you rate your competitive schedule?

9. Is your practice time sufficient?

10. Was post-season competition by invitation or qualification? How did the team qualify, or why was the team invited?

11. Is there any problem with the season during which the sport is scheduled (e.g., fall vs. spring) or the length of season (discuss in terms of number of weeks)?

Coaches Only:

12. Who does the scheduling? (If a considerable difference exists between the number of home and away games, ask why.)

13. On what basis is the competition time(s) determined and are these times convenient?

14. Is there a unique aspect about the schedule for the team? If yes, clarify.

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[2] Check the NCAA directory for division level of opponents, if relevant. If not listed, ask during interviews the division level of opponents. This information is to be used primarily for analyzing levels of competition information under the interests and abilities program component at § 106.41(c)(1), but may be more easily obtained during a discussion with recipient officials of the scheduling component.

ANALYSIS

INCORPORATE interview information and make changes as necessary to the information obtained from the data request. COMPARE, for men's and women's teams of the same or similar sport, the number of games, the days and times of games, and the number of practices and the days and times of practices. NOTE any differences. COMPARE the remaining men's and women's teams for the same information and determine whether any differences for the scheduling of these remaining teams may offset any differences in the scheduling for teams of similar sports.

USE the scheduling program comparison chart to assist in these comparisons. One chart for the program comparison is designed to compare the same or similar sports, while the second program comparison chart is for grouping the remaining sports in the athletic program in whatever manner seems logical based on the specific institution's program. SUMMARIZE any differences at the bottom of the chart.

DETERMINE whether any differences result in a disparity and whether any disparity constitutes a significant disparity. SEE the section Approach to Athletics Investigations for a description of disparities and permissible differences.

SEE the model letter of findings at Tab C for recommendations on presenting the information obtained regarding scheduling of games and practice time.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences based on the unique aspects of particular sports. See the section Approach to Athletics Investigations for a more detailed discussion of permissible nondiscriminatory differences. Ask the appropriate institutional representative for an explanation of any disparities found.

An example of a nondiscriminatory justification for scheduling disparities is where the scheduling of competitive events is limited by lack of competition for that sport in the normal competitive region. Fewer competitive contests may in turn affect practice schedules and pre-season and post-season competitive opportunities.

Competitive and practice schedules are often affected by the availability of facilities. Usually, an investigation of the scheduling program component will involve an investigation of the program component at § 106.41(c)(7) regarding the provision of locker rooms, practice and competitive facilities. When schedules for teams of one sex are adversely affected by the availability of facilities, a disparity in both program components may occur.

An institution is not required to schedule the same number of games or practices for men's and women's teams of the same or similar sport. However, any differences favoring, for example, men's teams, should be offset by differences favoring women's teams in other sports.

– Scheduling of Games and Practice Time –

For consistency, calculate numbers of games for certain competitions in the following manner. For round robin tournaments or double header games, count each game as a separate event. For individual sports that involve multi-school tournaments, such as track, swimming, and gymnastics, count each tournament as one event even though it may last two or three days. For sports such as volleyball where competition is decided in matches in which the first team to win, for example, three out of five games wins the match, count each match as one event.

Scheduling of Games and Practice Time -- Team Chart

TEAM ______________________________

Number of Participants ______________________

Number of regular season games	Home: Away: Total:	
Number of pre-season games		
Number of post-season games		
Days of week and times of day games are played		
Date practice begins and days of week and times of day when practices are held		
Any pre-season or post-season competition denied		
Comments:		

SUMMARY ______________________________

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Scheduling of Games and Practice Time - Program Comparison

SIMILAR SPORTS	Number of Regular Season Games Home/Away	Number of Pre-Season Games/ Number of Post Season Games	Qualified But Did Not Play Pre-Season/ Post-Season	Days of Week and Times of Day Games are Played	Days of Week and Times of Day Practices are Held
1.	M: W:	M: W:	M: W:	M: W:	M: W:
2.	M: W:	M: W:	M: W:	M: W:	M: W:
3.	M: W:	M: W:	M: W:	M: W:	M: W:
4.	M: W:	M: W:	M: W:	M: W:	M: W:
5.	M: W:	M: W:	M: W:	M: W:	M: W:

SUMMARY ______________________________

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Scheduling of Games and Practice Time - Program Comparison

OTHER SPORTS	Number of Regular Season Games Home/Away	Number of Pre-Season Games/ Number of Post Season Games	Qualified But Did Not Play Pre-Season/ Post-Season	Days of Week and Times of Day Games are Played	Days of Week and Times of Day Practices are Held
1.	M: W:	M: W:	M: W:	M: W:	M: W:
2.	M: W:	M: W:	M: W:	M: W:	M: W:
3.	M: W:	M: W:	M: W:	M: W:	M: W:
4.	M: W:	M: W:	M: W:	M: W:	M: W:
5.	M: W:	M: W:	M: W:	M: W:	M: W:

SUMMARY ______________________________

TRAVEL AND PER DIEM ALLOWANCE

34 C.F.R. § 106.41(c)(4)

The Policy Interpretation lists five factors to be assessed in determining compliance:

1. **modes of transportation;**
2. **housing furnished during travel;**
3. **length of stay before and after competitive events;**
4. **per diem allowances; and**
5. **dining arrangements.**

INFORMATION TO COLLECT

OBTAIN a map of the institution's competitive area, particularly for intercollegiate athletics investigations where greater distances between competitive sites are more likely to affect the modes of transportation used. The map will assist in making comparisons of the modes of transportation used for men's and women's teams traveling the same distances. Be prepared to ask coaches the distance to a competitive site when necessary. In addition, for an interscholastic athletics investigation that does not include an investigation of the scheduling program component, it will be necessary to obtain a competitive schedule for each team for investigating the travel and per diem program component. Interscholastic teams will probably travel only within the school district or conference limits except for special events or tournaments. The interview questions should be modified as necessary for interscholastic athletics investigations, depending on the responses to the data request and initial interview questions.

Data Request

REQUEST the following information through the data request. (SEE the sample data request at Tab B.)

1. Copies of written policies, procedures, and criteria for providing travel arrangements and per diem allowances

2. The travel expenditures and budgets for each team

3. A list of the modes of transportation (privately-owned vehicles; institutionally owned vehicles - be specific as to car, van, bus, or plane; commercial vehicles - bus; train; or plane) used by each team for each away game

4. The per diem allowances for each team

5. The size of the travel squad for each team and the number of personnel and their identities (trainer(s), coaches, sports information staff, etc.), who travel with the team to away games

6. **A copy of the competitive schedule for each team (if not requested under the data request for another program component)**

RECORD this information using the travel and per diem team chart and program chart. It may be necessary to request more complete information during the on-site interviews. COMPARE the information provided and NOTE any differences between the men's and women's programs.

On-site

INTERVIEW coaches and athletes from each team regarding whether the travel and per diem allowances are adequate. It may be useful to take the game schedule to the interviews and allow the interviewees to refer to the schedule to recall away games.

Interview Questions

Coaches and Athletes:

1. What was the mode of transportation used for each away event? Ask for the distance to any event, as necessary.
2. If not apparent, ask the reason for the specific mode of transportation provided.
3. What housing is furnished during travel (Holiday Inn, etc.)? Ask specific name.
4. How many athletes are assigned to each room?
5. What are the dining arrangements? Does the team eat as a group and the coach pays the bill? Are the athletes given money to eat wherever they wish?
6. What is the per diem allowance? or, how much money per meal?
7. Is the team provided with a pre-game meal?
8. How much time in advance of the competitive event does the team arrive in the area of the competitive event? Is this always true or does the arrival time vary? On what do any variations depend?
9. Does the team leave immediately after a competitive event, or are there some occasions where the team might stay overnight? On what does this depend?

Coaches Only:

10. Does the coach prepare the travel budget? If not, who does? Is the budget adequate? If not, why?

-- Travel and Per Diem Allowance --

11. Does the coach handle the travel arrangements for the team (reservations, securing the mode of transportation, etc.)? If not, who does?

ANALYSIS

INCORPORATE the interview information on the charts with the responses to the data request questions.

COMPARE the modes of transportation used by men's and women's teams. In particular, REFER to the scheduling information and USE a map to determine which teams traveled similar distances. COMPARE the modes of transportation used where men's and women's teams traveled similar distances. DETERMINE whether the number of athletes, others traveling with the team, and/or the amount of equipment to be transported may explain any differences in the mode of transportation used by men's and women's teams traveling the same distances.

COMPARE the housing furnished during travel for men's teams to the housing provided to women's teams. NOTE whether teams of one sex stay at better quality motels than teams of the other sex, or stay at motels while teams of the other sex stay in dormitory rooms. COMPARE whether teams of one sex have more athletes assigned to a room than teams of the other sex.

COMPARE whether teams of one sex arrive at away games earlier and/or leave later than teams of the other sex, thus allowing more time for rest, meals, or practices. DETERMINE whether there is a pattern favoring teams of one sex.

COMPARE the per diem allowances for men's and women's teams. (Per diem allowances usually refer to meal expenses only. If otherwise, clarify as necessary.) NOTE any differences in the amounts provided. USE the amounts actually given or spent on athletes since this may be different from the "standard" per diem rate that the institution may set. If "per diem" amounts are not used, USE total amounts per meal and divide by the number of participants traveling with the team to obtain a figure for comparison purposes. (Be certain that any calculations consider the number of meals necessary for a particular trip.) Also, NOTE any differences in the method of payment. DETERMINE whether any differences in payment methods have a negative impact on teams of one sex.

COMPARE the dining arrangements during travel for men's and women's teams. NOTE any differences in quality such as whether teams of one sex eat at restaurants while teams of the other sex eat at the institution cafeteria.

COMPARE the total and average travel and per diem budgets for men's and women's teams. COMPARE the average travel and per diem budget per athlete. Be certain to USE the number of athletes on the travel squad, which is often less than the total number of athletes on the team. NOTE any differences. NOTE separately whether any coaches indicated that the number of athletes traveling with the team was limited because of inadequate travel and per diem budget.

DETERMINE whether any differences result in a disparity and whether any disparity constitutes a significant disparity. SEE the section Approach to Athletics Investigations for a description of disparities and permissible differences.

SEE the model letter of findings at Tab C for recommendations on presenting the information obtained regarding travel and per diem allowances.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences based on the unique aspects of particular sports. See the section Approach to Athletics Investigations for a more detailed discussion of permissible nondiscriminatory differences. Ask the appropriate institutional representative for an explanation of any disparities found.

The mode of transportation may vary between teams traveling the same distances because the size of the team, the number of people traveling to the competition (for example, coaches, trainers, sports information personnel, etc., in addition to the athletes), and/or the amount of equipment that must be transported may vary.

Travel and Per Diem -- Team Chart

TEAM ______________________________

Number of Participants ______________________________

Number of Athletes on Travel Squad / Number of Other Individuals = Total	
Modes of Transportation	
Housing Furnished During Travel	
Per Diem Allowances	
Dining Arrangements	
Length of Stay Before and After Games	
Other (budget, etc.)	

SUMMARY ______________________________

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Travel and Per Diem -- Summary Program Comparison

MEN'S PROGRAM TEAMS	No. of Travel Squad Athletes/ Others	Modes of Trans-port	Housing During Travel	Per Diem Allowance	Dining Arrangements	Stay Before and After Games	Other
WOMEN'S PROGRAM TEAMS							

SUMMARY ____

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OPPORTUNITY TO RECEIVE ACADEMIC TUTORING ASSIGNMENT AND COMPENSATION OF TUTORS

34 C.F.R. § 106.41(c)(5) & (6)

OCR has determined that the investigation and analysis of the coaching and tutoring program components are simplified significantly by combining the subject areas of the opportunity to receive academic tutoring (§ 106.41(c)(5)) and the assignment and compensation of tutors (§ 106.41(c)(6)) into one investigative category and the opportunity to receive coaching (§ 106.41(c)(5)) and the assignment and compensation of coaches (§ 106.41(c)(6)) into another investigative category. This section addresses the requirements for tutoring under the Title IX regulation and the Policy Interpretation.

It is very unusual for an elementary or secondary education institution to provide tutors to its students, and even more unlikely that tutors would be provided specifically to athletes. Thus, it is highly unlikely that an investigation of an interscholastic athletics program will include the program component of tutoring.

For postsecondary programs, if no special tutoring or academic counseling services are provided to athletes, as distinguished from the general student body, no further investigation is necessary. This fact should simply be stated in the letter of findings (LOF). The investigative report (IR) should address how it was determined that no special program exists for the tutoring of athletes of either sex. Some institutions have an academic advisor assigned to the athletics program whose specific duties are to arrange tutoring services for athletes, even though the tutoring program is the same as that for the general student body. The assignment of an academic advisor to athletes constitutes special academic counseling services and, even though this may be the only special arrangement made for athletes, a full investigation, as outlined below, is necessary. Based on OCR experience, many institutions that provide a special tutorial program for athletes provide this service under a centralized administration for both men's and women's programs. Where this is true, interview questions should be modified as appropriate, and a general description of the tutorial program in the LOF and the IR will suffice. Furthermore, the analysis, as outlined below, may be modified as appropriate.

The Policy Interpretation lists two factors to be assessed in determining compliance for the opportunity to receive academic tutoring:

1. the availability of tutoring; and
2. procedures and criteria for obtaining tutorial assistance.

The Policy Interpretation lists two factors to be assessed in determining compliance for the assignment of tutors:

1. tutor qualifications; and
2. training, experience, and other qualifications.

BEST COPY AVAILABLE

– Tutors –

The Policy Interpretation lists five factors to be assessed in determining compliance for the compensation of tutors:

1. hourly rate of payment by nature of subjects tutored;
2. pupil loads per tutoring season;
3. tutor qualifications;
4. experience; and
5. other terms and conditions of employment.

The information for this program component should be categorized and reviewed as follows:

1. Tutor Availability - amount of time tutors are available for athletes, e.g., always, only certain days, only certain hours, etc.

2. Tutor Qualifications and Experience - academic degrees, research specialties, years of experience, grade level of those previously tutored, whether tutoring is done in subjects of expertise or other subjects, etc.

3. Rates of Pay - tutor salary, or hourly pay rates, including by subject if there are differences by subject.

4. Employment Conditions - includes number of students tutored per session and per academic term, terms of any contract, etc.

INFORMATION TO COLLECT

Data Request

REQUEST the following information through the data request. (SEE the sample data request at Tab B.)

1. Copies of written policies, procedures, and criteria for making tutors available to athletes; include the qualifications, experience, and rates of pay for tutors

On-site (If necessary)

INTERVIEW coaches and athletes from each team regarding the provision of tutoring services. In addition, INTERVIEW administrators responsible for arranging tutoring services.

Interview Questions

Athletes:

1. Do you or any member of your team receive tutoring? How was it obtained? Describe the complete process from the point of recognition of the need to actually receiving the tutoring.

-- Tutors --

2. Who are the tutors? Are they instructors, professors, graduate students, undergraduate students, etc.?

3. Who pays for the tutoring?

4. What is your opinion of the quality of the tutors? Are they available often enough?

Coaches:

5. Do any members of your team receive tutoring? How was tutoring provided to them? Describe the process.

6. What is your opinion of the quality of the tutors? Are they available often enough?

7. What is your role?

8. Out of what account is tutoring financed?

9. How much are tutors paid?

10. Have any of the participants encountered any problems?

Administrators:

11. Describe the procedures for providing tutoring to athletes from the time the need is recognized to the point tutoring is provided.

12. Are there any differences for any particular teams? If so, what are they and why?

13. What are the qualifications of the tutors? Are they professors, instructors, graduate students, undergraduate students, etc.?

14. How does someone become a tutor?

15. How much are tutors paid? If the amount differs by course, why and how much? From what account are tutors paid?

16. How many students do the tutors tutor at one session? During one academic term? Explain any variations.

17. Who assists you in the administration of the tutoring program?

18. Verify the location of offices. (This information is also relevant for the program component of support services but is easier to obtain here).

RECORD the information using the tutoring team and program comparison charts. (Charts may not be necessary for each team unless there are differences for various teams.)

ANALYSIS

COMPARE the tutoring available to the women's program with the tutoring available to the men's program. DETERMINE whether there are any differences in the amount of time that tutors are available to the women's program as compared to the men's program.

COMPARE the qualifications and experience of tutors provided to the men's program with the qualifications and experience of tutors provided to the women's program. DETERMINE whether there are any differences between tutors for the men's program as opposed to tutors for the women's program in the level of academic achievement, years of experience, and whether tutors tutor in their field of expertise.

COMPARE the rates of pay and/or salary of the tutors provided to the men's program with the tutors provided to the women's program. NOTE any differences. NOTE any differences in the rates of pay by subject and whether any pattern is evident such that tutors for athletes of one sex receive higher rates of pay by subject than tutors for athletes of the other sex.

COMPARE the employment conditions of tutors provided to the men's program as opposed to the women's program, including the number of students tutored per tutoring session, the number of students tutored per academic term, and the terms and length of any employment contract. NOTE any differences.

DETERMINE whether there are any differences in the accounts from which tutors for the men's program are paid as opposed to tutors for the women's program. DETERMINE whether any differences limit tutoring services for athletes of one sex.

DETERMINE whether any differences result in a disparity and whether any disparity constitutes a significant disparity. SEE the section Approach to Athletics Investigations for a description of disparities and permissible differences.

SEE the model letter of findings at Tab C for recommendations on presenting the information obtained regarding tutoring.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences. See the section Approach to Athletics Investigations for a more detailed discussion of permissible nondiscriminatory differences. Ask the appropriate institution representative for an explanation of any disparities found.

Not all athletes may want or need tutoring services. A pattern may be evident such that athletes of one sex receive more tutoring services than athletes of the other sex. The responses to the interview questions should indicate whether any such pattern is the result of discriminatory practices of providing more limited or inferior services to athletes of one sex or whether the result may be explained by nondiscriminatory reasons.

Tutoring – Team Chart

TEAM ______________________________

Number of Participants ______________________

Number of Athletes Receiving Tutoring	
Availability of Tutors	
Tutor Qualifications and Experience	
Rates of Pay	
Employment Conditions	
Sources of Tutoring Budget	
Other	

SUMMARY ______________________________________

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Tutoring -- Summary Program Comparison

MEN'S PROGRAM TEAMS	No. of Athletes Receiving Tutoring	Availability of Tutors	Tutor Qualifications and Exp.	Rates of Pay	Employment Conditions	Source of Tutor Budget	Other
WOMEN'S PROGRAM TEAMS							

SUMMARY ____

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OPPORTUNITY TO RECEIVE COACHING
ASSIGNMENT AND COMPENSATION OF COACHES

34 C.F.R. § 106.41(c)(5) & (6)

OCR has determined that the investigation and analysis of the coaching and tutoring program components are simplified significantly by combining the opportunity to receive coaching (§ 106.41(c)(5)) and the assignment and compensation of coaches (§ 106.41(c)(6)) into one investigative category and the opportunity to receive academic tutoring (§ 106.41(c)(5)) and the assignment and compensation of tutors (§ 106.41(c)(6)) into another investigative category. This section addresses the requirements for coaching under the Title IX regulation and the Policy Interpretation.

The Policy Interpretation lists three factors to be assessed in determining compliance for the opportunity to receive coaching:

1. relative availability of full-time coaches;
2. relative availability of part-time and assistant coaches; and
3. relative availability of graduate assistants.

The Policy Interpretation lists two factors to be assessed in determining compliance for the assignment of coaches:

1. training, experience, and other professional qualifications;
2. professional standing.

The Policy Interpretation lists seven factors to be assessed in determining compliance for the compensation of coaches:

1. rate of compensation (per sport, per season);
2. duration of contracts;
3. conditions relating to contract renewal;
4. experience;
5. nature of coaching duties performed;
6. working conditions; and
7. other terms and conditions of employment.

The information for this program component should be categorized and reviewed as follows:

1. Availability - relative availability of full-time and part-time coaches and graduate assistants.

2. Assignment - training, experience, and other professional qualifications of coaches.

3. Compensation - the allocation of funds for coaching to the men's and women's program.

INFORMATION TO COLLECT

There are significant differences in the assignment and compensation of coaches in intercollegiate athletics programs as compared to interscholastic athletics programs. Intercollegiate athletics coaches may be full time coaches (100% coaching duties for 12 months) or part time coaches who are paid salaries based solely on their coaching duties and qualifications, separate from any other job duties or qualifications (such as teaching) at the institution. Interscholastic athletics coaches are rarely (if ever) full time coaches, and generally perform coaching duties in addition to their teaching or administrative duties for the school district. They are usually paid a stipend for coaching which is in addition to their, for example, teaching salary. The stipend may be a flat rate set by the school district for that specific coaching position with no relation to the specific coach's background and experience. The data request and interview questions below are designed to determine how the particular institution assigns and compensates coaches for the athletics program, in addition to clarifying the availability of coaches. Certain questions are modified for the expected differences between intercollegiate and interscholastic athletics programs and are labeled accordingly.

Data Request

REQUEST the following information through the data request. (SEE sample data request at Tab B.)

1. Intercollegiate Athletics: A list of coaching staff for each team; for each coach, provide individual's status as head, assistant, or student assistant coach; salary; full-time or part-time status; percentage of employment if part-time; length of contract or assignment; non-coaching duties; background and experience

   Interscholastic Athletics: A list of the coaching staff for each team and each individual's status as head, assistant, or student assistant coach; salary or stipend for coaching duties; each coach's other job duties and the extent to which each coach is relieved of other job duties during the season of sport, semester, etc. (e.g., reduced teaching load, etc.); length of contract or assignment for coaching, background and experience related to each individual's selection as coach; and, a copy of the job contract for each coach

2. A description of the policies, procedures, and criteria for selecting coaches and for determining coaches' salaries

3. Information on the policies concerning the number of coaches for each team

4. The number of athletes on each team (if not obtained under another program component)

RECORD the information using the team and program comparison charts for coaching.

On-site

INTERVIEW coaches and athletes from each team regarding coaching. INTERVIEW the administrator(s) responsible for the budget for coaches' salaries and the assignment of coaches.

Interview Questions

Administrator(s):

1. Intercollegiate Athletics: Verify (or obtain) the salary for each coach. Is any coach(es) paid a salary that is significantly higher than the salaries of other coaches? If so, why?

   Interscholastic Athletics: Verify (or obtain) the salary or stipend for each coach. Determine whether the amount is based on the coaching position or whether the coaching qualifications of the specific individual affect the rate of pay. Is any coach(es) paid a salary that is significantly higher than the salaries of other coaches? If so, why?

2. How was it determined which coaches were needed? Who determined whether they would be hired for full or part time? Describe the hiring procedures.

Coaches:

3. Verify or determine the background and experience of the head coach, especially coaching, teaching, and participation at each level, for example, high school, college, amateur, and/or professional. Ask the head coach to provide the same information for any assistant coaches.

4. Verify or determine the academic degree of the head coach and any assistant coaches. (It may be simpler to ask whether everyone has the same degree level rather than asking for each coach.) For each coach, determine whether academic degree was considered regarding appointment and/or salary.

5. Explain all of your duties and responsibilities. Be specific. Explain all duties and responsibilities of any assistant coaches. Be specific.

6. Intercollegiate Athletics: Verify or determine the number of full-time and part-time coaches, and verify that full-time means a 12 month contract with 100% of time spent on coaching duties. For part-time coaches, verify the length of contract or assignment and the percentage of full-time employment as a coach. Verify the hiring procedures.

   Interscholastic Athletics: Verify or determine the terms of the contract or assignment, including reduction of teaching load or other duties during season of sport or semester. Verify the hiring procedures.

7. Verify the number of student assistant coaches and their duties.

8. How many athletes are on the team?

Athletes:

9. Verify the number of head, part-time, and student assistant coaches.

10. Determine whether all coaches are always available for practice and competition and other times (e.g., counseling, specialized training, etc.).

RECORD the information using the coaching team and program comparison charts.

ANALYSIS

The investigation and analysis of this program component is difficult. OCR's primary focus must be availability of coaches. Following that, the qualifications (in effect, assignment) of coaches will need to show a pattern of less qualified coaches being assigned to the program for students of one sex before lack of equivalence can be demonstrated because, depending on the particular individuals, it is possible for a coach with five years experience to be as effective, or even more effective, than someone with 15 years coaching experience. The third factor, compensation of coaches, is particularly difficult for establishing noncompliance under § 106.41. If availability and assignment of coaches to both programs are equivalent, it is difficult for OCR to assert that the lower compensation for coaches in, for example, the women's program, negatively affects female athletes. The intent of § 106.41 is for equal athletic opportunity to be provided to participants, not coaches. Where both male and female coaches in the women's program are receiving lower compensation than coaches in the men's program, asserting noncompliance with Subpart E of the Title IX regulation regarding employment is also difficult. Thus, this particular program component requires very careful analysis and careful reasoning in justifying violations.

Some Subpart E violations may be evident during athletics investigations. See the policy memorandum entitled, "Policy Clarification - Title IX Coaching Compensation," issued June 27, 1983, from the Assistant Secretary to the Regional Civil Rights Director, Region IV, at Tab E of this manual, for additional clarification.

Under certain circumstances, some coaching positions can and should be excluded from the three part analysis described below. These coaching positions are for coaches of combined and coed teams. "Combined teams" refers to sports where the men's and women's teams have the same coach(es) and practice and compete at the same or similar times. This situation is most likely for the sports of swimming, track, and cross country. Coaches of combined teams should be excluded from the analysis unless the investigation reveals that more coaching time is spent with athletes of one sex. In this case, a breakdown of the percentage of time spent with each team and the corresponding percentage of salary must be obtained and calculated, and included in the analysis below. Coaches of coed teams should be excluded from the analysis below (be certain any teams described as coed have both male and female athletes rather than, for example, a men's team that opens participation to women but no women are actually participating on the team).

Availability:

Intercollegiate Athletics: DETERMINE the full time equivalence (FTE) of coaches for each team. (Full time equivalence is based on the full calendar year. A full time coach is someone with 100% coaching duties for 12 months; a half time coach is someone with 100% coaching duties for 6 months or 50% coaching duties for 12 months; a quarter time coach is someone with 100% coaching duties for 3 months or 25% coaching duties for 12 months, etc.). For example, if a team has one full time coach (1.0), one half time coach (.5), and one quarter time coach (.25), the FTE will be 1.75. DETERMINE the total FTE of coaching for all teams in the women's program. Do not calculate FTE figures for graduate or student assistant coaches unless these individuals are head coaches. DETERMINE the ratio of FTE coaches to the number of participants in the women's program. DETERMINE the total FTE of coaching for all teams in the men's program. DETERMINE the ratio of FTE coaches to the number of participants in the men's program. COMPARE the ratio of coaches to participants for the men's program to the ratio of coaches to participants in the women's program.

The result of this comparison is an indicator of the availability of coaches in the men's and women's programs. However, additional analysis is necessary. OCR investigative experience indicates availability of coaches may not be equivalent even when FTE ratios are equivalent. This tends to occur where, for example, most or all men's teams have assistant coaches where few or no women's teams have assistant coaches. The larger numbers of participants in men's athletics programs, often programs offering football, may suggest equivalence in availability based on FTE ratios while, in fact, fewer coaches per team in the women's program negatively affects the availability of coaches to female athletes. This negative impact on students results because the coaching time available to students, which is not apparent in a comparison of FTE ratios, may be affected by several duties related to coaching, including administrative, clerical, fund raising, or recruiting duties. Thus, the following additional analysis is necessary for availability of coaching:

DETERMINE the number of assistant coaches available to each team in the men's and women's programs. COMPARE the number of women's teams that have assistant coaches with the number of men's teams that have assistant coaches. NOTE any differences in the number of assistant coaches for each team in the men's and women's programs and the number of teams in each program that have assistant coaches.

Interscholastic Athletics: DETERMINE the number of coaches available to each team in the boys' and girls' programs. DETERMINE the ratio of the total number of coaches to the total number of participants in each program and COMPARE the ratios. NOTE any differences. DETERMINE the number of assistant coaches available to each team in the boys' and girls' programs. COMPARE the number of girls' teams that have assistant coaches with the number of boys' teams that have assistant coaches. NOTE any differences in the number of assistant coaches for each team in the boys' and girls' programs and the number of teams in each program that have assistant coaches.

– Coaches –

Assignment:

COMPARE the training, experience, and other professional qualifications of coaches assigned to the men's programs with coaches assigned to the women's program. NOTE any differences. (Since individuals' backgrounds and experiences may vary considerably, differences are expected. The determination is based on whether the assignment of coaches is equivalent or equal in effect. The institution may not routinely assign coaches of less experience or qualifications to, for example, the women's program.)

Compensation:

COMPARE the salaries of head coaches in the men's program with the salaries of head coaches in the women's program. COMPARE the salaries of assistant coaches in the men's program with the salaries of assistant coaches in the women's program. Do not include figures for graduate and student assistant coaches unless they are paid a salary as opposed to receiving tuition, room and board, books, etc. DETERMINE any differences. DETERMINE whether any differences are the result of nondiscriminatory factors such as the following, which are noted in the Policy Interpretation: the range and nature of duties, the experience of individual coaches, the number of participants for particular sports, the number of assistant coaches supervised, the level of competition, or whether a particular individual possesses such an outstanding record of achievement as to justify an abnormally high salary.

COMPARE the percentage of coaching funds available to the men's program with the percentage of coaching funds available to the women's program. The proportion of these percentages should be roughly equivalent to the proportion of male to female participants in the athletics program. NOTE any significant differences in these proportions.

OCR investigative experience indicates that comparisons between salaries for head coaches and assistant coaches in the men's and women's programs are likely to result in a significant disparity in intercollegiate athletics programs. In the past, postsecondary institutions have been able to provide nondiscriminatory justifications under the Policy Interpretation for these significant disparities. Significant disparities for these comparisons and nondiscriminatory justifications for them are still likely. However, with the expansion of women's athletics programs and the emphasis an institution may place on particular women's teams, some postsecondary institutions may have difficulty justifying significant disparities in salaries for coaches in men's and women's programs.

Significant disparities that have nondiscriminatory justifications for them are less likely in interscholastic athletics programs where coaches usually receive a stipend for coaching duties. In particular, OCR experience indicates that some institutions may base coaching stipends on the sport that is coached. Where this is the case, institutions may be unable to justify differences between, for example, the stipends for the coach of the boys' basketball team as compared to the coach for the girls' basketball team.

– Coaches –

As noted above, even where significant differences may be apparent under compensation of coaches, it is difficult for OCR to assert that there is a negative impact on athletes of one sex if availability and assignment of coaches are equivalent. The possible discriminatory effect of compensation disparities on coaches is addressed in further detail in the memorandum referenced above and found at Tab E of this manual.

Summary Analysis

DETERMINE whether any differences result in a disparity and whether any disparity constitutes a significant disparity. SEE the section Approach to Athletics Investigations for a discussion of disparities and permissible differences.

SEE the model letter of findings at Tab C for recommendations on how to present the information obtained and discuss comparisons of men's and women's programs.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences, several of which are listed above in the "Analysis" section under "compensation." See the section Approach to Athletics Investigations for a more detailed discussion of permissible nondiscriminatory differences. Ask the appropriate institution representative for an explanation of any disparities found.

The nature of the sport of football, including the number of participants needed to field a team, the rate of injury, and the rate of severe injury, often justifies the assignment of several assistant coaches.

Coaching -- Team Chart

TEAM ____

Number of Participants __________________________

Availability of Head Coach	
Qualifications, Experience of Head Coach	
Salary, Contract Terms, and Work Conditions of Head Coach	
Availability of Assistant Coaches	
Qualifications, Experience of Assistant Coaches	
Salaries, Contracts, and Work Conditions of Assistant Coaches	
Other	

SUMMARY ____

____

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Coaching -- Summary Program Comparison

MEN'S PROGRAM TEAMS	Availability of Head Coach	Qualifications, Experience of Head Coach	Head Coach Pay, Contract Terms, Work Conditions	Availability of Assistant Coaches	Qualifications, Experience of Assistant Coaches	Assistant Coaches Pay, Contract, Work Conditions
WOMEN'S PROGRAM TEAMS						

SUMMARY

PROVISION OF LOCKER ROOMS, PRACTICE AND COMPETITIVE FACILITIES

34 C.F.R. § 106.41(c)(7)

The Policy Interpretation lists six factors to be assessed in determining compliance:

1. quality and availability of the facilities provided for practice and competitive events;
2. exclusivity of use of facilities provided for practice and competitive events;
3. availability of locker rooms;
4. quality of locker rooms;
5. maintenance of practice and competitive facilities; and
6. preparation of facilities for practice and competitive events.

INFORMATION TO COLLECT

Data Request

REQUEST the following information through the data request. (SEE the sample data request at Tab B.)

1. Copies of written policies, procedures, and criteria regarding the use and availability of locker rooms, practice and competitive facilities

2. A listing of all locker rooms, practice and competitive facilities used by each team, the name of the facility, the age of the facility, its location, other uses of the facility, which teams have exclusive use of the facilities, and the period of time for which lockers are assigned; if available, a map showing the available facilities and their locations

RECORD this information using the facilities team chart, the facilities program chart, and the facilities charts. Recording this information on these charts before the on-site investigation will greatly facilitate the interviews with coaches and athletes and the review of the facilities. Be prepared to request more complete information during the on-site investigation. COMPARE the information provided and NOTE any differences between the men's and women's programs.

On-site

INSPECT the facilities used by each team. Various methods for conducting this inspection are acceptable, but it may be more convenient for both investigator and institution staff if all facilities are reviewed at once by the investigator with someone knowledgeable about the facilities. Careful note taking is a necessity during this inspection. Depending on the type of facility, it may be helpful to use the facility chart for locker rooms or the facility chart for practice and competitive facilities. In particular, during the inspection of facilities, NOTE the general condition and sufficiency of the locker rooms and related facilities; the proximity of the locker rooms to practice and competitive facilities; the types of services offered at the various facilities (e.g., laundry room, etc.); and the condition and sufficiency of practice and competitive facilities. NOTE any differences between the facilities provided to the women's program as compared to the men's program.

-- Locker Rooms, Practice and Competitive Facilities --

INTERVIEW coaches and athletes from each team regarding the provision of locker rooms, practice and competitive facilities. Take the facilities charts to the interviews. Interviewees are likely to refer to the facilities by name which may be confusing since OCR staff will not be sufficiently familiar with the campus. In addition, at larger institutions, athletic directors, assistant athletic directors, and/or other administrators may be responsible for scheduling facilities and/or may supervise staff responsible for maintenance and preparation of facilities. **INTERVIEW administrators and other personnel as necessary. If it is appropriate to interview these individuals, generally the interview questions, as listed below, are appropriate with minor modification. In addition, a general description of these individuals' duties would be warranted.**

Interview Questions

Coaches and Athletes:

1. Verify the locations of the practice and competitive facility and the locker rooms for each team. If the practice facility is different from the competitive facility, ask why, and ask whether this is a problem.

2. Do any other teams or institution activities (e.g., interscholastic, intercollegiate, club, or intramural teams, pep band, etc.) use the facility? Are any of these activities scheduled at the same time as practice or competition? Which activity or team has priority use of the facility?

3. Who maintains the facilities? Are the facilities maintained adequately?

4. Who prepares the facilities for competitive events? Are they prepared adequately?

5. Do the facilities require preparation for practices and, if so, who prepares the facilities, and are they prepared adequately?

6. Are lockers individually assigned to the athletes? For what length of time (e.g., all year, the sport season, etc.)?

7. Do athletes have exclusive use of the locker rooms or are other teams or groups using the locker room at the same time?

8. What is the quality of the practice and competitive facilities (e.g., excellent, adequate, poor)? Are they "regulation"?

9. What is the quality of the locker room facilities (e.g., excellent, adequate, poor)?

10. What special features are available at the facilities (e.g., laundry service or trainers available in locker room area; accommodations for visiting teams; concession facilities, spectator capacity, public address system, electronic scoreboards, special lighting for television coverage at competitive or practice facilities, etc.)?

RECORD the information for each team using the facilities team chart and the facilities program comparison chart.

ANALYSIS

DETERMINE whether any policies, procedures, or criteria used for allocating locker rooms, practice and competitive facilities differ on the basis of sex.

COMPARE the quality and availability of practice and competitive facilities for men and women. DETERMINE any differences between the men's and women's programs.

COMPARE the quality and availability of locker room facilities for men and women, and DETERMINE any differences between the men's and women's programs.

COMPARE the number of men's teams that have exclusive use of practice and/or competitive facilities with the number of women's teams that have exclusive use of practice and/or competitive facilities.

COMPARE the number of women's teams that have exclusive use of locker room facilities with the number of men's teams that have exclusive use of locker room facilities.

COMPARE the maintenance and preparation of practice and competitive facilities for the men's program with the maintenance and preparation of practice and competitive facilities for the women's program. NOTE any differences.

DETERMINE whether any differences result in a disparity and whether any disparity constitutes a significant disparity. SEE the section Approach to Athletics Investigations for a description of disparities and permissible differences.

SEE the model letter of findings at Tab C for recommendations on presenting the information obtained regarding locker rooms, practice and competitive facilities.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences based on the unique aspects of particular sports. See the section Approach to Athletics Investigations for a more detailed discussion of permissible nondiscriminatory differences. Ask the appropriate institutional representative for an explanation of any disparities found.

The availability and adequacy of facilities is often contingent upon the number of athletes who need to use a facility at any one time.

Exclusive use of a facility refers to exclusive use at the time of the practice session or competition. Thus, exclusivity of use will be affected only if other teams, physical education classes, intramural teams, or other groups use the facility at the same time as the team practice or competition. However, if many groups use a particular facility, it may affect the quality of the facility, or the necessary maintenance and preparation of the facility.

– Locker Rooms, Practice and Competitive Facilities –

The provision of locker rooms, practice and competitive facilities may be the direct result of the scheduling of games and practices for each team. Often, an investigation of locker rooms, practice and competitive facilities will involve an investigation of the program component regarding the scheduling of games and practice time at § 106.41(c)(3).

Facility Chart -- Locker Room Facilities

Name of Facility	
Location & Proximity to Practice/Competitive Facilities	
Schedule of Teams Using Facility	
Others Who Use Facility	
Number and Type of Lockers	
General Size	
Quality	
Cleanliness	
Number and Quality of Showers/Restrooms	
Special Features	
Other	

COMMENTS ____

____

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Facility Chart -- Practice and Competitive Facilities

Name and Type of Facility	
Location	
Schedule of Teams Using Facility	
Others Who Use Facility	
Quality	
Age	
Seating Capacity	
General Size	
Special Features	
Other	

COMMENTS ____

____

TEAM ______________________________

Number of Participants ______________________

Competitive Facility

Name:

Maintained and
Prepared by:

Schedule:

Shared With:

Quality:

Other:

Practice Facility

Name:

Maintained and
Prepared by:

Schedule:

Shared With:

Quality:

Other:

Locker Rooms

Name:

Quality:

Availability --
  locker assignment:
  room shared with:

Proximity to Practice/
  Competitive Facilities:

Other:

SUMMARY ______________________________

Locker Rooms, Practice and Competitive Facilities -- Summary Program Comparison

MEN'S PROGRAM TEAMS	Quality and Availability of Competitive Facilities	Quality and Availability of Practice Facilities	Exclusive Use of Practice/ Competitive Facilities	Quality and Availability of Locker Rooms	Maintenance and Preparation of Practice/Competitive Facilities	Other
WOMEN'S PROGRAM TEAMS						

SUMMARY ____

PROVISION OF MEDICAL AND TRAINING FACILITIES AND SERVICES

34 C.F.R. § 106.41(c)(8)

The Policy Interpretation lists five factors to be assessed in determining compliance in the provision of medical and training facilities and services:

1. **availability of medical personnel and assistance;**
2. **health, accident and injury insurance coverage;**
3. **availability and quality of weight and training facilities;**
4. **availability and quality of conditioning facilities; and**
5. **availability and qualifications of athletic trainers.**

INFORMATION TO COLLECT

Data Request

REQUEST the following information through the data request. (SEE the sample data request at Tab B.)

1. List of each weight, training, and conditioning facility available to athletes; the location of each facility; the teams that use each facility; if available, a list of the name and type of equipment in each facility
2. List of the names of the trainers and medical personnel assigned to each team; the certification of each trainer; the identification of student trainers; which trainers accompany teams to away games
3. Copies of any insurance policies covering athletes; the cost of the policy to the athlete, if any (general insurance policies available to all students at the institution need not be provided)

RECORD this information using the medical and training team chart, program comparison chart, and facilities chart. Recording this information on these charts before the on-site will facilitate interviews with trainers, coaches, and athletes, and the inspection of the facilities.

REVIEW the insurance policy and DETERMINE the extent of coverage and whether coverage is equivalent for men and women. NOTE that under 34 C.F.R. § 106.39, any recipient that provides full coverage health service shall provide gynecological care. (Generally, institutions that provide insurance coverage specifically for athletes cover injuries or health problems related to the athletes' participation in the athletics program. Under such a policy, gynecological care shall be covered where such health problems are the result of participation in the athletics program.) DETERMINE any differences in the insurance coverage provided. Be prepared to interview the appropriate institutional representative, usually the athletic director, regarding any differences in insurance coverage.

Also, NOTE that differences in insurance coverage on the basis of sex may result in a violation of 34 C.F.R. § 106.39. However, under the program component of the provision of medical and training facilities and services, an insurance policy favoring athletes of one sex is only one factor of several to be considered and will not necessarily result in a violation under § 106.41.

On-site

INSPECT the facilities used by each team. USE the facilities chart and TAKE careful notes. NOTE the number of machines in each facility. ASK the name of any machine, device, or equipment as necessary. ASK for a general description of services or treatment provided. ASK to inspect any medical or training equipment which may be stored away and not readily visible (e.g., ultrasound, heat or ice treatment equipment, etc.). NOTE the general condition, size, sufficiency, and services available at each facility. NOTE the proximity of these facilities to locker rooms, practice and competitive facilities. NOTE any differences between the facilities and services provided to the women's program as compared to the men's program.

INTERVIEW coaches and athletes from each team and all full time trainers. INTERVIEW the athletic directors and other institutional representatives, such as the strength coach, facilities managers, etc., as necessary or appropriate. Take the facilities charts to the interviews. Interviewees are likely to refer to the facilities by name which may be confusing since OCR staff will not be sufficiently familiar with the campus or the medical and training equipment available.

Interview Questions

Trainers:

1. Verify or determine the professional background of each trainer (education, degree, professional experience in terms of years and where the experience was obtained) and certification.

2. How much experience do you have in treating male and female athletes? Which sports?

3. How many people do you supervise? What are the names and titles of employees? How many student trainers?

4. Are the student trainers seeking academic degrees in training related fields? How are student trainers allocated to each team?

5. To whom do you report?

6. Do you work with or coordinate the work of physicians who work with the team? If so, explain.

7. Are physical exams given to each team each year? How is this arranged? Who conducts the exams for which teams?

– Medical and Training Facilities and Services –

8. Which teams have medical doctors that travel with the team to away games? Which teams have medical doctors present for home games and practices?

9. What is the schedule for medical doctors for the teams they treat?

10. Do any medical doctors have office space at the institution? Who and where?

11. What equipment is contained in each training room?

12. Which teams have access to the training facilities?

13. Do athletes use the training rooms on a scheduled or drop-in basis? If scheduled, what is the schedule?

14. Who is responsible for the weight and conditioning rooms?

15. Verify the equipment located in these rooms.

16. Are the weight and conditioning rooms used on a scheduled or drop-in basis? If scheduled, what is the schedule?

17. What is your opinion of the quality of the training facilities? What is your opinion of the quality of the weight and conditioning facilities?

18. What clerical and secretarial assistance do you have? What are their names and responsibilities? Do these individuals work for anyone else?

19. Verify the location of the trainer's office.

20. When trainers are assigned to accompany a team to away events, do their expenses come out of the team's budget or a training budget? Are there differences for different teams and, if so, which teams?

21. Do you have any other responsibilities such as arranging meals for certain teams for away games? Describe any such responsibilities and the teams which receive this assistance. (If meals are arranged, where does the team eat, what kinds of food, which meals, what are the costs per meal per athlete, and is one bill paid or charged to the hotel?)

Coaches and **Athletes**:

22. Does the team use any of the weight and conditioning facilities on campus? If not, why? If so, which ones? Where are they located? What is the schedule? What is the procedure for use? Who supervises the workouts? What is the extent of supervision?

23. What is your opinion of the general quality of the facility? How well is it maintained?

24. Do the athletes get physical exams? When? Where? Conducted by whom? How is this arranged?

– Medical and Training Facilities and Services –

25. Is there a medical doctor available for home events? If so, who? For away games? If so, who?

26. How many professional trainers are assigned to the team? How many student trainers are assigned to the team?

27. How many trainers travel to away games? Attend practice? Attend home games?

28. Do trainers have any responsibilities with the team other than training responsibilities? If so, what other responsibilities? Be specific.

29. What training facility is used by the team? Is the facility available on a scheduled or drop-in basis? If scheduled, what is the schedule?

30. What is your opinion of the general quality of the facility? How well is it maintained?

31. Where is the training facility located?

32. Has any athlete ever had an injury requiring an examination or treatment by doctor? If so, how were the doctor's services obtained?

RECORD the information for each team using the medical and training team, program, and facilities charts.

ANALYSIS

DETERMINE whether any policies, including insurance coverage, differ on the basis of sex.

DETERMINE the quality and availability of medical personnel (i.e., doctors, physiotherapists, nurses, paramedics) to the men's and women's teams. COMPARE whether the quality and availability of medical personnel for the women's teams differ from the quality and availability of medical personnel for the men's teams.

DETERMINE the quality and availability of weight and conditioning facilities for men's and women's teams, including which teams have exclusive use of certain facilities, which teams have priority use of these facilities, which teams must share facilities, and which teams have use of any special facilities. COMPARE whether the quality and availability of these facilities differ between the men's and women's programs.

DETERMINE the quality and availability of training facilities for men's and women's teams, including which teams have exclusive use of these facilities, which teams have priority use of these facilities, which teams must share these facilities, and which teams have use of any special facilities. COMPARE whether the quality and availability of these facilities differ between the men's and women's program.

-- Medical and Training Facilities and Services --

DETERMINE the quality and availability of trainers to the men's and women's teams, including which teams are assigned professional as opposed to student trainers, and which trainers are full or part time. COMPARE whether the quality and availability of trainers differ between the men's and women's programs.

DETERMINE whether any differences result in a disparity and whether any disparity constitutes a significant disparity. SEE the section Approach to Athletics Investigations for a description of disparities and permissible differences.

SEE the model letter of findings at Tab C for recommendations on presenting the information obtained regarding medical and training facilities and services.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences based on the unique aspects of particular sports. See the section Approach to Athletics Investigations for a more detailed discussion of permissible nondiscriminatory differences. Ask the appropriate institutional representative for an explanation of any disparities found.

The program component of the provision of medical and training facilities and services is one where comparing men's and women's teams of the same or similar sport can be beneficial. For example, the need for professional as opposed to student trainers, or access to similar quality and equally available weight, conditioning, and training facilities is not likely to vary significantly between the men's and women's basketball teams. However, some variations may be justified by different numbers of athletes on the teams, or injuries or conditions of specific athletes who require more intense conditioning or training services.

The unique aspects of sports, including the number of participants necessary to field a team, the rate of injury, and the rate of severe injury, may justify the assignment of more qualified and more frequently available medical and training personnel, and the scheduling of more frequently available conditioning and training facilities to a particular team.

The injury rates in particular sports may justify more comprehensive insurance coverage for a particular team.

The availability and adequacy of facilities is often contingent upon the number of athletes who need to use the facility at any one time.

Certain teams (e.g., a golf team) may choose not to use weight and conditioning facilities at all. The relevant determination is based on whether facilities are available should a team or individual athletes desire to use them.

Facility Chart -- Medical and Training Facilities

Name and Type of Facility	
Number and Type of Machines/ Equipment	
Schedule of Teams Using Facility	
Others Who Use Facility	
Quality	
General Size or Capacity	
Cleanliness/ Maintenance	
Proximity to Lockers, Practice and Competitive Facilities	
Supervision	
Other	

COMMENTS ____

____

Medical and Training Facilities and Services -- Team Chart

TEAM ______________________________

Number of Participants ______________________________

Quality and Availability of Trainers/ Medical Staff	
Name and Schedule of Conditioning Facility	
Others Using Conditioning Facility	
Quality of Conditioning Facility	
Name and Schedule of Training Facility	
Others Using Training Facility	
Quality of Training Facility	
Insurance	
Other	

SUMMARY ______________________________

____

Medical and Training Facilities and Services -- Summary Program Comparison

MEN'S PROGRAM TEAMS	Quality and Availability of Trainers/Medical Personnel	Name, Schedule, and Quality of Conditioning Facilities	Name, Schedule, and Quality of Training Facilities	Insurance	Other
WOMEN'S PROGRAM TEAMS					

SUMMARY ____

____

PROVISION OF HOUSING AND DINING FACILITIES AND SERVICES

34 C.F.R. § 106.41(c)(9)

It is very unusual for an elementary or secondary education institution to provide housing and dining facilities and services to athletes. Thus, it is unlikely that an investigation of an interscholastic athletics program will include the program component of housing and dining facilities and services. In the event that a complainant alleges discrimination under this program component in interscholastic athletics, or an interscholastic athletics compliance review addresses all program components under § 106.41(c), use the sample data request labeled for interscholastic athletics under housing and dining facilities and services at Tab B.

Postsecondary institutions often provide special dining arrangements for athletes even when no special housing arrangements are provided. The provision of special arrangements for either housing or dining will necessitate a full investigation as outlined below.

The Policy Interpretation lists two factors to be assessed in determining compliance for the provision of housing and dining facilities and services:

1. housing provided;
2. special services as part of housing arrangements (e.g., laundry facilities, parking space, maid service).

INFORMATION TO COLLECT

Data Request

REQUEST the following information through the data request. (SEE the sample data request at Tab B.)

1. Copies of policies and practices regarding any special housing and dining facilities or arrangements (including dormitories specifically for athletes and training table and pre-game meal arrangements); or any special preference given to athletes in allocating dormitory space

2. A list of special housing and dining facilities, their location, capacity, and teams using the facilities

RECORD the information using the housing and dining team and program comparison charts. If the information indicates that a dormitory is available specifically for athletes, then, while on-site, ASK to see the dormitory.

On-site

INTERVIEW coaches and athletes from each team regarding the provision of housing and dining facilities and services.

INSPECT the special housing, such as athletic dormitories, available to athletes. NOTE any special features available such as laundry facilities, parking spaces provided, maid service, kitchen facilities, size of rooms, number of athletes assigned to rooms, shower and restroom facilities, etc.

Interview Questions

Coaches and Athletes:

1. Where do the athletes live? What is the name of the facility and its location?

2. How was it arranged for the athletes to live there? Was this arranged by the athletic department? If not, how?

3. Describe the housing facility. How is it furnished? How are the shower and restroom facilities arranged (for example, located in the room or down the hall)? Are there any special features such as laundry facilities, maid service, parking space, kitchen facilities, etc.?

4. What housing and dining arrangements are made for the athletes when they must be on campus during quarter breaks or when the dormitories are otherwise closed? Where do the athletes stay? Where do they dine? Who pays for meals? How much money is available per meal? Is this adequate?

5. What kind of meal plan are the athletes on? How many meals per week? Where do the athletes dine? Is the food adequate? Describe in detail.

6. Are pre-game meals provided to the athletes before home games? Where do athletes eat pre-game meals? What food is provided?

RECORD the information for each team using the housing and dining facilities team and program comparison charts.

ANALYSIS

DETERMINE whether there are any differences in the policies for providing special housing for men's and women's teams.

DETERMINE whether there are any differences in the quality of any special housing provided to men's teams and any special housing provided to women's teams, including the special features that may be available in the housing facility. Also, DETERMINE whether there are any differences between men's and women's programs for the number of athletes assigned to a room.

COMPARE the number of men's teams for whom special housing arrangements are made with the number of women's teams for whom special housing arrangements are made.

COMPARE the meal plans available to men's teams with those available to women's teams, including any differences in the type of plan, the number of meals per week, and the adequacy of the food provided. COMPARE the number of men's teams for whom meal plans are arranged with the number of women's teams for whom meal plans are arranged.

COMPARE the number of men's teams for whom special housing and dining arrangements are made with the number of women's teams for whom special housing and dining arrangements are made when the dormitories are otherwise closed.

COMPARE the number of men's teams for whom training tables or pre-game meals are arranged with the number of women's teams for whom training tables or pre-game meals are arranged. NOTE any differences in the quality of the food provided.

DETERMINE whether any differences result in a disparity and whether any disparity constitutes a significant disparity. SEE the section Approach to Athletics Investigations for a description of disparities and permissible differences.

SEE the model letter of findings at Tab C for recommendations on presenting the information obtained regarding housing and dining facilities and services.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences based on the unique aspects of particular sports. See the section Approach to Athletics Investigations for a more detailed discussion of permissible nondiscriminatory differences. Ask the appropriate institution representative for an explanation of any disparities found.

The availability and adequacy of facilities, including the number of special features available, or the size of rooms, are often contingent upon the number of athletes who need to use a facility at any one time.

The unique aspects of sports may result in variations of types and amounts of meal plans or pre-game meals arranged for particular teams. The types and amounts of meal plans and pre-game meals should be evaluated for adequacy and appropriateness.

Housing and Dining Facilities and Services -- Team Chart

TEAM ______________________________

Number of Participants ______________________

Housing Provided	
Housing Special Features; Services; and Quality	
Housing Arranged During School Breaks	
Meal Plan Type and Quality	
Meals Arranged During School Breaks	
Pre-Game Meals Provided – Type and Quality	
Other	

SUMMARY ______________________________

____

Housing and Dining Facilities and Services -- Summary Program Comparison

MEN'S PROGRAM TEAMS	Housing Provided	Housing Special Features, Services, and Quality	Meal Plan Type and Quality	Housing and Meals Arranged During School Breaks	Pre-Game Meals	Other
WOMEN'S PROGRAM TEAMS						

SUMMARY ____

____

PUBLICITY

34 C.F.R. § 106.41(c)(10)

The Policy Interpretation lists three factors to be assessed in determining compliance[1]:

1. availability and quality of sports information personnel;
2. access to other publicity resources for men's and women's programs; and
3. quantity and quality of publications and other promotional devices featuring men's and women's programs.

INFORMATION TO COLLECT

Data Request

REQUEST the following information through the data request. (SEE the sample data request at Tab B.)

1. Copies of written policies, procedures, and criteria regarding providing publicity services to the men's and women's athletics programs, including samples of all publicity documents made available to the men's and women's programs (e.g., press guides, recruitment brochures, schedule cards, game programs, etc.)

2. A description of all publicity and promotional services made available to the men's and women's athletics programs

3. A list of the names of sports information personnel and the teams to which each person is assigned

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[1] OCR has determined that the provision of cheerleaders, pep bands, drill teams, etc., shall be investigated under the publicity program component when a complainant alleges noncompliance in the provision of such groups or allegations of noncompliance are made during the course of the investigation. The provision of such groups need not be investigated absent allegations of noncompliance. When allegations of discrimination are made regarding the provision of cheerleaders, etc. (which is more common for interscholastic than intercollegiate athletics programs), the investigator should interview administrators, coaches, and athletes regarding the provision of such groups and the extent that such groups are available to teams, and request an explanation of the policies and procedures for making each group available to any team. The information obtained should be analyzed to determine whether there is a disparity in the provision of cheerleaders, etc., and this analysis is to be incorporated into the analysis for the other factors listed above. Participation in and membership policies for such groups are to be investigated under 34 C.F.R. § 106.31 regarding education programs and activities and are not to be included in an athletics investigation.

-- Publicity --

RECORD this information using the publicity team and program comparison charts. COMPARE samples of publicity documents with the description of publicity and promotional services provided to ensure that either a sample or list has been provided of every publicity service available. COMPARE the information provided for men's and women's programs and NOTE differences. IDENTIFY the sports information personnel who should be interviewed. Large universities are likely to employ a sports information director full time and two or three full time assistants who may be assigned to specific teams. In addition, full time sports information personnel may have salaried or student assistants. Smaller institutions or interscholastic athletics programs may assign publicity duties to the athletic director, an assistant athletic director, or to coaches as part of their overall duties. Full time sports information personnel should be interviewed. In addition, administrators with significant sports information duties should be interviewed.

On-site

INTERVIEW full time sports information personnel (interview the director first), and coaches and athletes from each team regarding the provision of publicity services. (Generally, information regarding the number of part time sports information personnel and student assistants, and their duties and assignments, may be provided by the full time personnel.) INTERVIEW athletic directors and other administrators as appropriate.

Interview Questions

Sports Information Personnel:

1. Describe your background and experience (e.g., how long, where, with whom, doing what). What are the terms of your present employment?

2. Describe your duties.

3. What is the amount of time you spend on each sport or each facet of your job?

4. To whom do you report?

5. Whom do you supervise? What is the background and assignment for those you supervise?

6. How do you coordinate your responsibilities with the head coach of the teams with whom you work?

7. Who coordinates any radio and TV coverage? Explain.

8. What is done to promote women's sports? What is done to promote men's sports?

9. What criteria are used to determine the level of support your office provides to the various teams?

10. Verify the sports information services that the interviewee provides to the teams he or she covers (e.g., writes the press guides, provides weekly press releases, etc.)

-- Publicity --

Coaches:

11. Verify or determine the name of the sports information person assigned to the team.

12. Does the sports information person assigned to the team travel to away games? Is this person present at all home games? Who pays the expenses of the sports information person? What are this person's responsibilities overall and during away games? Does this person keep statistics or provide other assistance?

13. What sports information services do you provide? Do you promote the team in any way?

Coaches and Athletes:

14. What are the publicity and promotional services provided to the team (e.g., pocket schedules, posters, press guides, programs for home events, etc.)?

15. How many spectators are there at home events?

16. How would you rate the publicity provided to your team (including the quantity, quality, and availability of sports information personnel and the quantity and quality of publications and promotional devices)? Are there any problems? Be specific. What do you think would remedy any problems?

RECORD the information for each team using the publicity team and program comparison charts.

ANALYSIS

COMPARE the policies, procedures, and criteria for providing publicity services to the men's program and the women's program. DETERMINE any differences.

COMPARE the quality of sports information personnel (i.e., background, experience, etc.) assigned to men's teams with the quality of sports information personnel assigned to women's teams.

COMPARE the number of sports information personnel assigned to the men's teams with the number of sports information personnel assigned to the women's teams.

COMPARE the availability and amount of time sports information personnel spend on men's teams with the availability and amount of time sports information personnel spend on women's teams.

COMPARE the availability of other sports information services to the men's teams with the availability of other sports information services to the women's teams.

COMPARE the quality of sports information publications and promotional services and devices provided to the men's teams with the quality of publications and promotional services and devices provided to the women's teams.

COMPARE the quantity of publications and promotional services and devices provided to the men's teams with the quantity of publications and promotional services and devices provided to the women's teams.

DETERMINE whether any differences result in a disparity and whether any disparity constitutes a significant disparity. SEE the section Approach to Athletics Investigations for a description of disparities and permissible differences.

SEE the model letter of findings at Tab C for recommendations on presenting the information obtained regarding publicity.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences based on the unique aspects of particular sports. See the section Approach to Athletics Investigations for a more detailed discussion of permissible nondiscriminatory differences. Ask the appropriate institution representative for an explanation of any disparities found.

Newspapers, TV, and other media are not required to be equally responsive to an institution's efforts to provide equivalent publicity services to its men's and women's athletics programs. The determination must be based on the institution's efforts to provide equivalent publicity services.

The unique circumstances of a particular team, competitive event, or particular athlete (e.g., national champion, national competition, Olympic hopeful athlete, etc.) may create unique demands or imbalances in particular program components, including publicity. Such imbalances are permissible to the extent that opportunities for teams of the other sex are not limited.

Publicity – Team Chart

TEAM ______________________________

Number of Participants ______________________

Availability – Number and Quality of Sports Information Personnel Assigned to Team	
Personnel Attending Home/Away Games	
Quality and Type of Publications and Promotional Devices	
Quality of Publications and Promotional Devices	
Sports Information Services Provided by Coach	
Number of Spectators at Home Games	
Other	

SUMMARY ______________________________

____

Publicity -- Summary Program Comparison

MEN'S PROGRAM TEAMS	Availability of Sports Information Personnel	Quality of Sports Info Personnel	Quantity & Type of Publications/ Promotional Dev.	Quality of Publications and Promotional Devices	Coaches' Publicity Duties	Other
WOMEN'S PROGRAM TEAMS						

SUMMARY ______________________________

____

PROVISION OF SUPPORT SERVICES

34 C.F.R. § 106.41(c)

The Policy Interpretation states that "[t]he administrative and clerical support provided to an athletic program can affect the overall provision of opportunity to male and female athletes, particularly to the extent that the provided services enable coaches to perform better their coaching functions." The Policy Interpretation lists two factors to be assessed in determining compliance:

1. the amount of administrative assistance provided to men's and women's programs;
2. the amount of secretarial and clerical assistance provided to men's and women's programs.

INFORMATION TO COLLECT

Data Request

REQUEST the following information through the data request. (SEE the sample data request at Tab B.)

1. Copies of written policies, procedures, and criteria for providing administrative, secretarial, and clerical support services to the men's and women's programs

2. An organizational chart showing lines of authority for all persons in the athletics program indicating the administrative, secretarial, and clerical support personnel and the unit to which they are assigned; otherwise, a list of all employees, by job titles, listed under their immediate supervisor

RECORD this information using the support services team and program comparison charts, and the administrative and clerical staff charts.

On-site

INSPECT the facilities available for use by support services staff. INSPECT each administrator's and coach's office. This inspection should include offices provided for sports information personnel, even though the institution may not consider certain sports information personnel to be "administrators." During the inspection of offices, NOTE the size of the office; its location; the location of telephones; secretarial assistance in the area; the type and proximity of office machines (ask where they are if not obvious); with whom the office is shared, if anyone; etc. NOTE any differences between the office space, equipment, and supplies provided to the women's program as compared to the men's program.

INTERVIEW all administrators and coaches from each team regarding the provision of administrative, secretarial, and clerical support services.

Interview Questions

All Administrators:

1. What are your duties and responsibilities, and how much time do you spend on each? Be as specific as possible.
2. What secretarial and clerical assistance is available to you? Do these people do secretarial or clerical work for others? If so, who? About how much time do they work for you?
3. Where is your office located?
4. To whom do you report?
5. Whom do you supervise?

Coaches:

6. Who does the clerical and administrative work for the team? What are their names? What are their specific responsibilities? Where are their offices or desks located? Do these individuals work for anyone else? About how much time do they work for your team?
7. Do you perform any clerical functions? If so, what and why, and how much time do you spend on clerical functions?
8. Where is your office? Verify with whom the office is shared, if anyone. Do you have a telephone specifically for your use and do you have access to a WATS line?
9. To whom do you report?
10. What office machines are available?

RECORD this information using the support services team and program comparison charts, and the administrative and clerical staff charts.

ANALYSIS

COMPARE the policies, procedures, and criteria for providing support services to the men's program and the women's program. DETERMINE any differences.

COMPARE the number of administrators assigned to, and the amount of time they spend working for, the women's program with the number of administrators assigned to, and the amount of time they spend working for, the men's program.

Also, COMPARE the types of administrative services available to the men's program with the types of administrative services available to the women's program (types of administrative services might include, for example, athletic directors and assistants, business managers, accountants, facilities managers, fundraisers, team managers, etc.).

COMPARE the number of secretarial and clerical staff assigned to, and the amount of time they spend working for, the women's athletics program with the number of secretarial and clerical staff assigned to, and the amount of time they spend working for, the men's program.

COMPARE the number of women's teams who have to share administrative, secretarial, and clerical assistance with the number of men's teams who have to share administrative, secretarial, and clerical assistance.

COMPARE the number of coaches for the women's program who do clerical work with the number of coaches for the men's program who do clerical work.

COMPARE the size of the offices provided for coaches in the women's program, and the number of coaches for the women's program who share offices, with the size of the offices provided for coaches in the men's program and the number of coaches for the men's program who share offices.

COMPARE the office equipment available to the women's program with the office equipment available to the men's program, including photocopying machines, telephones available at individuals' desks, access to WATS lines, etc.

DETERMINE whether any differences result in a disparity and whether any disparity constitutes a significant disparity. SEE the section Approach to Athletics Investigations for a description of disparities and permissible differences.

SEE the model letter of findings at Tab C for recommendations on presenting the information obtained regarding support services.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences based on the unique aspects of particular sports. See the section Approach to Athletics Investigations for a more detailed discussion of permissible nondiscriminatory differences. Ask the appropriate institution representative for an explanation of any disparities found.

The need for administrative, secretarial, and clerical support services may vary from team to team. The relevant determination is whether this need is met to the same extent for the men's and women's programs.

Where shared offices are larger than single person offices, the amount of office space may be the same per staff person. The relevant determination is the convenience or inconvenience of sharing an office, which may affect, for example, coaches' abilities to counsel or recruit athletes.

Support Services – Team Chart

TEAM ____

Number of Participants ______________________________

Administrative Assistance	
Secretarial/ Clerical Assistance	
Office Space	
Office Locations	
Office Equipment and Supplies	
Clerical Duties Performed by Coaches	
Other	

SUMMARY ____

____

Support Services -- Administrative and Clerical Staff Chart

Administrator (Name and Title)	
Duties	
Office Space and Location	
Office Equipment and Supplies	
Secretarial/ Clerical Assistance	
Duties of Secretaries/ Clericals	
Office Space and Location	
Office Equipment and Supplies	
Other	

COMMENTS ____

____

Support Services -- Summary Program Comparison

MEN'S PROGRAM TEAMS	Administrative Assistance	Secretarial/ Clerical Assistance	Office Space/ Convenience of Locations	Office Equipment and Supplies	Clerical Duties Performed by Coaches	Other
WOMEN'S PROGRAM TEAMS						

SUMMARY ____

____

RECRUITMENT OF STUDENT ATHLETES

34 C.F.R. § 106.41(c)

It is highly unlikely that an elementary or secondary institution will recruit student athletes, and thus, an interscholastic athletics investigation is not likely to include this program component.

The Policy Interpretation lists three factors to be assessed in determining compliance:

1. whether coaches or other professional athletic personnel in the programs serving male and female athletes are provided with substantially equal opportunities to recruit;
2. whether the financial and other resources made available for recruitment in male and female athletic programs are equivalently adequate to meet the needs of each program; and
3. whether the differences in benefits, opportunities, and treatment afforded prospective student athletes of each sex have a disproportionately limiting effect upon the recruitment of students of either sex.

INFORMATION TO COLLECT

Data Request

REQUEST the following information through the data request. (SEE sample data request at Tab B.)

1. Copies of written policies, procedures, and criteria regarding recruitment of student athletes (including any differences in recruiting male and female athletes)
2. For each team, the area of recruitment, the names of personnel who recruit, and, for the current year and previous year, the number of prospective athletes, by sex, who were invited to visit campus as part of recruitment efforts and, of these, the number who had their trips to campus subsidized by the institution
3. The recruitment budgets and expenditures for each team for the current year and the previous year (if not part of general request for budget and expenditure information)

RECORD this information using the recruitment team and program comparison charts.

The budget and expenditure information is often central to determining compliance and should be provided in the general request for budget information. Otherwise, specifically request budget and expenditure information for recruitment of student athletes. Other information submitted under the general data request may provide useful information on recruitment. Press guides often list the home towns of participants; this will provide some indication of the recruitment effort for a particular team. Press guides and related publicity materials may also be used in mailings in recruitment of athletes.

Nearly all coaches have some recruiting duties. Therefore, the number of coaches for each team is important in determining the number of recruitment personnel for each team and the opportunity each coach has to recruit student athletes.

On-site

INTERVIEW appropriate administrators, all head coaches, and one or two participants from each team. INTERVIEW any assistant coaches who may coordinate the recruitment efforts for the team as necessary. The assistant and head coaches may be interviewed at the same time. (A basic understanding of the regulations of the athletics association to which the institution belongs, for example, the NCAA or regional conference, is helpful. SEE the section Approach to Athletics Investigations for a discussion of athletic associations.)

Interview Questions

Administrators:

1. What is the basis for the amount of recruitment funds allocated to each team?

2. If any team spends substantially more than it is allocated for recruitment, determine the source of funds provided and whether all teams are allowed to exceed their budget under the same or similar circumstances. Does any team spend less than it is allocated for recruitment? If so, why?

Coaches:

3. Verify or determine the number of recruitment personnel for the sport (coaches, graduate assistants, contacts in areas around the country, etc.).

4. Verify or determine the recruitment area. Determine how this particular area was established.

5. Determine the methods of recruitment used. Be specific and thorough.

6. Verify or determine the number of prospective student athletes that visited the campus during the previous year, and how many of these visits were subsidized.

7. Verify or determine the number of recruitment trips made by recruitment personnel.

8. Determine when and/or if tryouts for the team were held.

9. **Verify or determine the past expenditures in recruitment and the present budgets. Is the amount sufficient? If not, why? How much more is needed and for what purposes? Do you spend all the money allocated for recruitment? If not, why?**

10. Determine whether the above amounts are all inclusive for recruitment costs or whether some other expenses (telephone or mail, etc.) also contain recruitment costs. If so, what and how much?

11. What percentage of your time is spent on recruiting?

Athletes: (try to interview someone who was recruited)

12. What is your home town and high school?

13. Were you recruited? If so, by whom?

14. How were you recruited? Please be specific.

15. Did you visit campus before signing the athletic contract? How many times? Who paid for your visit(s)? What did you do when you visited the campus?

RECORD the information for each team using the recruitment team and program comparison charts.

ANALYSIS

COMPARE the policies, procedures, and criteria for the recruitment of student athletes in the men's and women's athletics programs. DETERMINE any differences. If differences are evident, DETERMINE whether there is an adverse effect on the basis of sex.

DETERMINE whether coaches or other professional athletic personnel in the men's and women's programs are provided with substantially equal opportunities to recruit. This determination is based on the amount of time a coach has to recruit.

TOTAL the recruitment funds allocated to each team and compare the proportion of recruitment funds with the proportion of male and female athletes in the athletics program. DETERMINE whether financial and other resources made available for recruitment in the men's and women's athletic programs are equivalently adequate to meet the needs of each program. Basically, this involves determining the availability of recruitment resources to the men's and women's programs, including access to a WATS line, recruitment brochures for mailing, etc. The failure to provide equivalent resources is usually the result of insufficient funding provided to, for example, the women's program as compared with the men's program.

COMPARE the number of institution subsidized visits to the campus by prospective athletes and the quality of the visit (for example, mode of transportation provided, entertainment, meals, campus tours, etc.) DETERMINE whether any differences in benefits, opportunities, and treatment offered prospective athletes had a disproportionately limiting effect upon the recruitment of students on the basis of sex.

SEE the model letter of findings at Tab C for recommendations on how to present the information obtained and discuss comparisons of men's and women's programs.

CAUTIONS

The Policy Interpretation permits nondiscriminatory differences based on the unique aspects of particular sports. See the section Approach to Athletics Investigations for a more detailed discussion of permissible nondiscriminatory differences. Ask the appropriate institution representative for an explanation of any disparities found.

Variations in team needs, such as an unusually large number of students graduating in a particular year, may result in unusually large recruitment budgets for a particular year.

Under § 106.15(d) of the Title IX regulation, private undergraduate institutions are exempt from Subpart C of the regulation, in effect, §§ 106.21, 106.22, and 106.23 regarding admission and recruitment of students. However, recruitment of students for the athletics program at a private undergraduate institution could affect other requirements of Title IX. Therefore, the investigator must follow the procedures below when conducting an intercollegiate athletics investigation at a private undergraduate institution. The investigation, as outlined above, should be conducted at the same time as the investigation of other program components. Attempting to conduct an investigation of recruitment at a later time would prove unnecessarily burdensome to the institution and OCR. However, findings for recruitment should be withheld until a determination is made for the program components of athletic financial assistance and accommodation of students' athletic interests and abilities. If there are no violations for these two program components, then the institution may not be cited for any disparity in the recruitment of student athletes. However, if there are violations in either athletic financial assistance or the accommodation of interests and abilities, and the institution's failure to provide equivalent recruitment opportunities is the basis for violations in either of these two program components, then the institution may be cited for a disparity for the program component of recruitment at § 106.41(c), and required to remedy this disparity regarding the recruitment of student athletes.

Recruitment - Team Chart

TEAM ______________________________

Number of Participants ______________________

Number of Full-Time/ Part-Time Recruitment Personnel	
Recruitment Area	
Methods of Recruitment	
Recruitment Budget and Expenditures	
Number and Quality of Subsidized Visits	
Number of Unsubsidized Visits	
Other	

SUMMARY ______________________________

____

Recruitment -- Summary Program Comparison

MEN'S PROGRAM TEAMS	Recruitment Budget and Expenditures	Number of Subsidized Visits	Quality of Subsidized Visits	Number of Unsubsidized Visits	Number of Recruitment Personnel	Number of Participants on Team	Other
WOMEN'S PROGRAM TEAMS							

SUMMARY ____

____

APPENDICES

TAB A

MODEL INVESTIGATIVE PLAN

The model investigative plan (IP) has been developed for an investigation of an entire intercollegiate athletics program. The IP may be adapted for an interscholastic athletics investigation by making the following changes:

1. Part IV, the Statement of Issues, should be revised to list only those issues to be investigated for the particular interscholastic athletics investigation;

2. Part VI, Approach to Resolving Issues, should be revised to list only those issues to be investigated for the particular interscholastic athletics investigation;

3. Part VI, Approach to Resolving Issues, the final compliance determination factors on pages 114 and 115, should be revised to focus on factor "c" first, and factors "a" and "b" may be eliminated where appropriate; factor "a" is considered only when an institution's policies are reviewed and factor "b" may be considered only when the entire interscholastic athletics program is investigated;

4. Part VII, Data Needs, should be revised to incorporate the Data Request Model for Interscholastic Athletics at Tab B of this manual. Any data request for an interscholastic athletics investigation should include only those issues pertinent to the particular investigation to be conducted; and

5. Throughout the investigative plan, any references to "intercollegiate" should be changed to "interscholastic," and any references to "men's and women's" teams or programs should be changed to "boys' and girls'" teams or programs.

The model investigative plan has been developed for the convenience of OCR's regional office staff. The IP may be modified as necessary or appropriate for any specific investigation.

MODEL INVESTIGATIVE PLAN

I. CASE IDENTIFICATION

A. Complaint Number ____________________

B. Complainant ____________________

____

C. Recipient ____________________

____

D. Injured Parties ____________________

E. Designated Representatives

1. Complainant ____________________

2. Recipient ____________________

F. Investigator ____________________

II. STATEMENT OF JURISDICTION

A. Recipient Status

The above recipient receives Federal financial assistance from the United States Department of Education. (See file)

B. Legal Authority Over Subject Matter

OCR has the legal authority to investigate this complaint under Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 et seq. (Title IX), and its implementing regulation at 34 C.F.R. Part 106. Under 34 C.F.R. § 106.71, which incorporates by reference the procedural requirements of Title VI of the Civil Rights Act of 1964, OCR has authority to obtain all information necessary to investigate a complaint.

Other Authority: The Intercollegiate Athletics Policy Interpretation issued December 11, 1979 (44 Fed. Reg. 71413 et seq. (1979)).

OCR will conduct an investigation to establish whether a violation of Title IX has occurred.

C. Applicable Court Orders

Court Orders:

D. Timeliness of Complaint

The complaint is timely because the alleged discrimination is continuing (or the last act of alleged discrimination was within 180 days of the filing date for the complaint).

The complaint was filed on ______date______.

Date of most recent discriminatory act ______________.

III. STATEMENT OF ALLEGATIONS

The complainant alleges that the institution does not provide equal opportunities in athletics in the following program areas:

A.
B.
C. continue listing as necessary

IV. STATEMENT OF ISSUES

The issues in this complaint investigation are:

A. Whether the recipient is providing reasonable opportunities for the award of athletic financial assistance in proportion to the participation rate of men and women in the intercollegiate athletics program (34 C.F.R. § 106.37(c))

B. 1) Whether the selection of sports and levels of competition equally effectively accommodate the interests and abilities of members of both sexes (34 C.F.R. § 106.41(c)(1))

2) Whether the recipient is providing equal opportunity for male and female athletes under the following factors addressed at 34 C.F.R. § 106.41(c)(2)-(10) and other factors addressed at 34 C.F.R. § 106.41(c) as provided by the Policy Interpretation:

§ 106.41(c)(2)	The provision of equipment and supplies
(3)	Scheduling of games and practice time
(4)	Travel and per diem allowance
(5)	Opportunity to receive coaching and academic tutoring
(6)	Assignment and compensation of coaches and tutors
(7)	Provision of locker rooms, practice and competitive facilities

(8) Provision of medical and training facilities and services
(9) Provision of housing and dining facilities and services
(10) Publicity

§ 106.41(c) as provided by the Policy Interpretation:

Support Services
Recruitment of Student Athletes

V. BACKGROUND

A. Case Chronology

1. Date of complaint ____________________

2. Date received by OCR ____________________

3 Date acknowledgement letter sent to complainant ____________________

4. Date acknowledgement letter sent to recipient ____________________

5. Date data request sent to recipient ____________________

B. Complainant

This complainant is . . . (provide complainant's relationship to institution and involvement in complaint issues).

C. Recipient

(Provide enrollment statistics and percentage of male and female students at institution. List sports offered to men and women. List athletic association in which institution is a member. List number of previous compliance activities at institution. List any previous Title IX athletics complaints or compliance reviews at institution.)

VI. APPROACH TO RESOLVING ISSUES

The complaint contains allegations of discrimination in sufficient portions of the athletics program to invoke the directions of the December 11, 1979, Policy Interpretation to investigate the athletics program in its entirety. There are 13 program components specified in the Policy Interpretation, and the investigation will focus directly on all 13 program components. The findings for these 13 program components are separated into two major areas.

1. **Issue: Whether the institution provides reasonable opportunities for financial assistance for members of each sex in proportion to the number of students of each sex participating in intercollegiate athletics as required by 34 C.F.R. § 106.37(c).**

   OCR will compare the proportion of financial assistance awarded to male and female athletes with the proportion of male and female athletes in the athletics program. OCR also will compare whether any differences in the average awards to male and female athletes are significant. Compliance results when these proportions or averages are substantially equal or any disparity may be explained by nondiscriminatory factors. Noncompliance constitutes a violation of § 106.37(c).

   OCR will also obtain information on the following:

   a) If the award of athletic financial assistance is not substantially proportionate, whether there are nondiscriminatory reasons that explain the disparities.

   b) Whether there are different policies, practices, or criteria in awarding non-athletic financial assistance, in effect, need-based or merit-based aid to athletes, as opposed to the general student body and, if so, the amount and type of assistance awarded.

2. **Issue: Whether the institution sponsors an intercollegiate athletics program that provides equal athletic opportunity for members of both sexes.**

   A. **Whether the selection of sports and levels of competition at the institution equally effectively accommodate the interests and abilities of members of both sexes as required by 34 C.F.R. § 106.41(c)(1).**

      OCR will assess compliance with this issue by reviewing:

      a) The determination of athletic interests and abilities;

      b) The selection of sports offered; and

      c) The levels of competition available including the opportunity for team competition.

   The following areas will be examined:

   - The method used by the institution to assess the athletic interests and abilities of its athletes or student body;

   - Whether there has been any increase in the number of male and female participants during the previous years;

   - Plans for program changes that affect the numbers of participation opportunities for male and female athletes;

- Intercollegiate teams for men and women and the number of participants on each team;
- Whether the kinds of intercollegiate sports offered have satisfied students' interests and abilities;
- Whether students have informed the institution of their interest in having certain intercollegiate sports added and, if so, how the institution responded;
- Whether the students are aware of any steps the institution has taken to assess and/or to respond to students' athletic interests and abilities;
- The institution's normal competitive region;
- Whether any intercollegiate teams have recently been eliminated or downgraded to club status; if so, which teams and why; also, whether any teams have been added or upgraded from club status.

The following areas will be discussed with appropriate individuals regarding the quality of participation opportunities and the selection of sports:

- Whether competitive schedules include competition with teams in other division classifications; if so, why?
- Whether the intercollegiate competition in which their teams participate is of a sufficient level, in their view, given their teams' ability;
- Whether any club athletes would like to upgrade their teams to intercollegiate status; if so, why?, and whether they have informed the institution and how it responded;
- Whether women are permitted to try out for any of the men's non-contact intercollegiate teams and, if so, whether they have done so and made the team;
- For any coed intercollegiate teams, whether the women play regularly in season competition; and
- Whether there is visible interest and sufficient competition available to establish separate women's teams in sports where only men's teams currently are offered.

2. B. **Whether the institution provides equal athletic opportunity for members of both sexes; the following factors will be investigated:**

(i) Provision of Equipment and Supplies (34 C.F.R. § 106.41(c)(2))

Are men's and women's teams provided with the amount of equipment appropriate for their sport?

Is equal athletic opportunity provided regarding the availability and suitability of equipment and supplies for men's and women's teams?

Is the quality of equipment and supplies provided equivalent for men's and women's teams?

Is the maintenance and replacement of equipment and supplies provided on an equivalent basis to men's and women's teams?

(ii) Scheduling of Games and Practice Time (34 C.F.R. § 106.41(c)(3))

Are men's and women's teams provided with the number of competitive events appropriate for their sport, their competitive area and their level of competition?

Is equal athletic opportunity provided regarding the number and length of practices for men's and women's teams?

Is equal athletic opportunity provided regarding the time of day games and practices are scheduled for men's and women's teams?

Is equal athletic opportunity to engage in available pre-season and post-season competition provided to men's and women's teams?

(iii) Travel and Per Diem Allowance (34 C.F.R. § 106.41(c)(4))

Are the modes of transportation provided on an equivalent basis to men's and women's teams?

Is there discrimination on the basis of sex regarding housing furnished to men's and women's teams during travel?

Is equal athletic opportunity provided regarding the length of stay before and after competitive events for men's and women's teams?

Are equivalent amounts of per diem allowances available to men's and women's teams?

Are male and female athletes provided with equivalent dining arrangements during travel?

(iv) Opportunity to Receive Tutoring and the Assignment and Compensation of Tutors (34 C.F.R. § 106.41(c)(5) and (6))

Is equal athletic opportunity provided in the availability of academic tutoring for women's and men's teams?

Is there discrimination on the basis of sex regarding procedures and criteria for obtaining tutorial assistance?

Is there discrimination on the basis of sex regarding the assignment and compensation of tutors for men's and women's teams?

Are the criteria for selecting tutors for men's and women's teams nondiscriminatory (including academic qualifications, training, experience, and other qualifications)?

Is equal opportunity for student athletes provided regarding the tutors for men's and women's teams such that the following are equivalent: compensation of tutors considering the nature of subjects tutored; pupil loads per tutoring session or season; tutor qualifications; experience; and other terms and conditions of employment?

(v) Opportunity to Receive Coaching and Assignment and Compensation of Coaches (34 C.F.R. § 106.41(c)(5) and (6))

Is equal athletic opportunity provided regarding the availability of full time, part time, assistant, and graduate assistant coaches for men's and women's teams?

Is there equal opportunity in the assignment of coaches to men's and women's teams based on the training, experience, professional standing, and other professional qualifications of coaches?

Is there discrimination on the basis of sex which affects equal opportunity to male and female athletes regarding the compensation of coaches and other terms and conditions of employment including: duration of contracts; conditions relating to contract renewal; experience; nature of coaching duties performed; working conditions; etc.?

(vi) Provision of Locker Rooms, Practice, and Competitive Facilities (34 C.F.R. § 106.41(c)(7))

Is there discrimination on the basis of sex regarding the quality and availability of the facilities provided for practice and competitive events for men's and women's teams?

Is equal athletic opportunity provided regarding the availability and quality of locker rooms for men's and women's teams?

Is there discrimination on the basis of sex regarding exclusivity of use of facilities provided for practice and competitive events for men's and women's teams?

Is there discrimination on the basis of sex regarding the maintenance and preparation of facilities for practice and competitive events for men's and women's teams?

(vii) Provision of Medical and Training Facilities and Services (34 C.F.R. § 106.41(c)(8))

Is equal athletic opportunity provided regarding the availability of medical personnel and assistance for men's and women's teams?

Is there equal opportunity regarding the availability and quality of weight and training facilities for men's and women's teams?

Is equal athletic opportunity provided regarding the availability and quality of conditioning facilities for men's and women's teams?

Is there discrimination on the basis of sex regarding the availability and qualifications of athletic trainers for men's and women's teams?

Is equal athletic opportunity provided regarding any health, accident, and injury insurance coverage for men's and women's teams?

(viii) Provision of Housing and Dining Facilities and Services (34 C.F.R. § 106.41(c)(9))

Is equal athletic opportunity provided regarding housing and dining for men's and women's teams?

Is equal athletic opportunity provided regarding any special services provided as part of housing arrangements for men's and women's teams?

Is equal opportunity provided regarding the time period during which special meal services are offered (season, semester, entire year)?

Is there equivalence in preventing conflicts between practice or game times and dining hours?

Is there equal opportunity regarding the provision of special dining arrangements?

(ix) Publicity (34 C.F.R. § 106.41(c)(10))

Is equal athletic opportunity provided regarding the availability and quality of sports information personnel for men's and women's teams?

Is there discrimination on the basis of sex regarding access to other publicity resources for men's and women's programs?

Is equal athletic opportunity provided regarding the quantity and quality of publications and other promotional devices featuring men's and women's programs?

(x) Support Services (34 C.F.R. § 106.41(c))

Is equal athletic opportunity provided regarding the amount of administrative assistance that is provided to the men's and women's programs?

Are coaches of men's and women's teams provided with equivalent office space?

Is there discrimination on the basis of sex regarding the amount of secretarial and clerical assistance provided to men's and women's programs?

(xi) Recruitment of Student Athletes (34 C.F.R. § 106.41(c))

Are coaches or other professional athletic personnel in the men's and women's athletic programs provided with substantially equal opportunities to recruit?

Are the financial and other resources made available for recruitment in the men's and women's athletic programs equivalently adequate to meet the needs of each program?

Do any differences in benefits, opportunities, and treatment afforded prospective student athletes on the basis of sex have a disproportionately limiting effect upon the recruitment of students of either sex?

For issue 2, OCR will assess compliance with 34 C.F.R. § 106.41(c) by comparing the availability, quality and kinds of benefits, opportunities, and treatment afforded members of both sexes. The institution will be in compliance if the compared program components are equivalent, that is, equal or equal in effect. If comparisons of program components are not equivalent, the institution may still be in compliance if the differences are the result of nondiscriminatory factors.

The compliance determination will be made in the overall program based on the following:

a. Whether the policies of an institution are discriminatory in language or effect; or

b. Whether disparities of a substantial and unjustified nature in the benefits, treatment, services, or opportunities afforded male and female athletes exist in the institution's program as a whole; or

c. **Whether disparities in individual segments of the program regarding benefits, treatment, services, or opportunities are substantial enough by themselves to deny equality of athletic opportunity.**

VII. DATA NEEDS (Use the following for intercollegiate athletics only; for interscholastic athletics, use the data request beginning on page 126)

1. A list of all teams, including any coed teams, in the intercollegiate athletics program, the athletic association in which the men's and women's programs are members, the division level at which each team competes, the date each team began intercollegiate competition, the number of participants of each sex on each team, and the eligibility or squad lists (for example, the NCAA squad list).

2. The current enrollment of full time undergraduate students by sex.

3. Copies of any current publications of the athletic department(s) available to the general public, including press guides, recruitment brochures, schedule cards, samples of game programs, and similar publications for each men's and women's team.

4. Copies for the current year and the previous year of budgets for the men's and women's intercollegiate athletic programs (by team and line item, if possible) and a record of the expenditures for each program (by team and line item, if available) for the previous year. If available, a copy of the institution's management plan or similar document or those portions of the document that show budget projections or proposed program changes for the athletic program beyond the current year.

5. If available, copies of written policies, procedures, and criteria for the following or, if unavailable, a description for:

   a. awarding athletic financial assistance to male and female athletes

   b. determining the amount and type of need-based or merit-based financial assistance for male and female athletes, only if such policies, practices, or criteria are different for athletes as compared to the general student body

   c. determining whether sports will be added (and, if so, what sports) to the men's and women's intercollegiate athletic programs; include copies of any reports discussing the growth of the athletics program and copies of any surveys or assessments conducted of students' athletic interests and abilities and the date(s) and results of the surveys or assessments

   d. providing, maintaining, and replacing equipment and supplies, including any replacement schedules

   e. establishing competitive and practice schedules

   f. permitting pre-season or post-season competition

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g. providing travel arrangements and per diem allowances

h. providing tutoring services to male and female athletes

i. determining the number of coaches (full time, part time, head, assistant and graduate or student assistants) assigned to teams

j. determining the use and availability of locker rooms and practice and competitive facilities

k. providing medical and training facilities and services to male and female athletes

l. providing athletes with special housing, dining facilities or arrangements, and services including any special preference given to athletes in allocating dormitory space

m. providing publicity services to men's and women's intercollegiate athletic programs

n. providing administrative, secretarial, and clerical support services to men's and women's intercollegiate athletics programs

o. recruiting student athletes, including any differences in recruiting male and female athletes

6. For the current year and previous year, for each athlete who receives (received) athletic financial assistance, the team on which the athlete competes, the amount of aid that was awarded to each athlete, and what expenses the award covered; also, a list of what expenses are covered by a full athletic scholarship for men and women and the dollar value of each of these expenses, including the cost of in-state and out-of-state tuition.

7. A current list of club and intramural sports and the number of participants by sex participating in each club and intramural sport.

8. The competitive and practice schedules for each intercollegiate athletic team (varsity, junior varsity, etc.) for the current year (or the previous year if not yet established), including the starting date of the first practice session for each team; if organized practice/competitive sessions are also scheduled for the team outside the regular season (for example, fall baseball or fall golf), obtain specifics.

9. A list of teams by sex that competed in post-season events, a list of the events, the schedule of competition, and a list of those teams by sex that qualified for such competition but did not compete; also, the same information for individual athletes when post-season competition is offered for individual entrants in addition to or in lieu of team competition.

10. A list of teams by sex that competed in exhibition or scrimmage games, the schedule of competition, and those teams by sex that had opportunities for such competition but did not compete.

11. A list of the modes or methods of transportation (privately-owned vehicles; institutionally-owned vehicles - car, van, bus, train, or plane; commercial vehicles - bus, train, or plane) used by each team for each competition; also, for each away competition, whether the team stayed overnight.

12. For each team, the size of the travel squad and the names and positions of additional personnel (including student assistants) who travel with the team to away games.

13. The per diem allowance for male and female intercollegiate athletes, by team if possible.

14. A list of the names of all varsity, junior varsity, and freshman coaches by team, with the following (or similarly relevant) information regarding their assignment:

    a) head
    b) assistant
    c) graduate or student assistant
    d) full time or part time as a coach (indicating percentage of full time)
    e) length of contract or assignment, for example, 9 months, 12 months
    f) other non-coaching duties at the institution (if appropriate), for example, Associate Professor for Physical Education, Counselor, Director of Transportation, etc., indicating percentage of time
    g) salary

15. A listing of all locker rooms, practice, and competitive facilities used by each team, indicating the name and general age of the facility, whether it is on or off campus, and whether the facility is used exclusively by certain teams or programs; also, a schedule showing when any facilities are used for practice and how long the locker rooms are assigned for use by each team (for example, competitive season only, all year, etc.); a copy of the campus map to indicate the location of all facilities, if available.

16. A list of each weight, training, and conditioning facility available to athletes, indicating the teams, by sex, using the facility, the schedule of use, and the location of the facility.

17. For each team, a list of the names of any trainers and any medical personnel assigned to the team; the certification of each trainer; if a student trainer, the number of years that person has been a student trainer; which trainers accompany the team to away games.

18. Copies of any health, accident, and injury insurance policies available to athletes of both sexes, and the cost of each policy to the athletes (if any). General policies available to all students at the institution need not be provided.

19. A list of the special housing and dining facilities, if any, provided to athletes, indicating the locations, the capacity, and the teams, by sex, that use the facilities; a list of such facilities provided for athletes during school breaks or early return to campus; also, if applicable, for which teams the institution provides training tables and/or pre-game meals before home games.

20. A description of the types of publicity or promotional services the institution makes available to the men's and women's intercollegiate athletic programs, including the name(s) and title(s) of person(s) in charge.

21. Any available organizational charts showing the lines of authority for all persons involved in intercollegiate athletics, indicating the administrative and clerical support personnel assigned to each organizational unit; for each organizational unit in the athletic department(s) (including teams), a list of the names of all personnel assigned to that unit and their titles; for student personnel, whether they are on work-study.

22. If the institution recruits student athletes, for each team: the area of recruitment, names of personnel who recruit, and for the previous year, a listing of recruitment trips made by each person; also, for the current year and previous year, for each team, the number of prospective athletes who were invited to and visited campus as part of a recruitment effort and, of these, the number of prospective athletes who had their trip to campus subsidized by the institution.

23. Any other available information that might help OCR to understand the institution's intercollegiate athletics program.

The data will be obtained from coaches, athletic directors, trainers, intercollegiate athletes, records, and other written policies and procedures.

VIII. INTERVIEWS

1. Athletic Director(s) for men's and women's sports
2. Assistant Athletic Directors
3. Head Coaches for men's and women's teams
4. Assistant and Graduate Assistant Coaches, if appropriate
5. Trainers
6. Equipment Managers, if appropriate
7. Athletic Financial Affairs Director
8. Director of Tutors
9. Student Athletes
10. Complainant
11. Others as identified

IX. PROPOSED ACTIVITY SCHEDULE

1. Send letter of acknowledgement to complainant
2. Send letter of notification and data request to recipient
3. Complete Investigative Plan
4. Receive Data
5. Analyze Data
6. Schedule On-site, if appropriate
7. Conduct On-site, if appropriate
8. Complete draft Investigative Report
9. If proposed violation finding, negotiate corrective action and forward corrective action plan
10. If proposed no violation finding, notify complainant of proposed adverse findings
11. Complete Investigative Report and Letter of Findings (LOF)
12. If proposed violation without corrective action, forward Enforcement Activity Report
13. Issue LOF
14. LOF due date: ______________.

X. REVIEW AND CLEARANCE

______________________ ______________________
Date

______________________ ______________________
Date

______________________ ______________________
Date

TAB B

DATA REQUEST MODELS

This section includes a model data request for intercollegiate athletics and a model data request for interscholastic athletics. The intercollegiate model provides for an investigation of the total athletics program as is usually required for intercollegiate athletics investigations. The interscholastic athletics data request contains many of the same questions as the intercollegiate model. However, certain questions are modified or eliminated based on expected differences between interscholastic and intercollegiate athletics programs. Also, the interscholastic athletics data request is separated by program component. This provides a quick reference where investigations may not address all program components. The four "general" questions listed at the beginning of the interscholastic athletics data request are useful for all interscholastic athletics investigations. However, if it is determined that not all four questions are appropriate for a particular investigation, the investigator should be careful to include the general questions that are particularly pertinent to the program components to be investigated since the general questions are not duplicated under the program component headings.

The data request for athletics investigations, particularly for the total athletics program, asks for large amounts of information that may involve many hours of staff time for institution officials. Depending on the extent of the investigation, the cover letter or the complaint acknowledgement letter, if the data request accompanies it, should express, where appropriate, OCR's awareness of the extensive nature of the data request. The cover letter should explain that OCR needs the most complete responses possible and should invite institution officials to organize their responses in a manner that is most convenient to them. Any preprinted material that responds to the data request should be encouraged.

Intercollegiate Athletics Data Request

Please provide the following information. Unless otherwise indicated, please provide data for the current year. Where written documents are not available, please provide a description of the benefit or service.

1. A list of all teams, including any coed teams, in the intercollegiate athletics program, the athletic association in which the men's and women's programs are members, the division level at which each team competes, the date each team began intercollegiate competition, the number of participants of each sex on each team, and the eligibility or squad lists (for example, the NCAA squad list).

2. The current enrollment of full time undergraduate students by sex.

3. Copies of any current publications and promotional materials of the athletic department(s) available to the general public, including press guides, recruitment brochures, schedule cards, samples of game programs, and similar publications for each men's and women's team.

4. Copies for the current year and the previous year of budgets for the men's and women's intercollegiate athletic programs (by team and line item, if possible) and a record of the expenditures for each program (by team and line item, if available) for the previous year. If available, a copy of the institution's management plan or similar document or those portions of the document that show budget projections or proposed program changes for the athletic program beyond the current year.

5. If available, copies of written policies, procedures, and criteria for the following or, if unavailable, a description for:

   a. awarding athletic financial assistance to male and female athletes

   b. determining the amount and type of need-based or merit-based financial assistance for male and female athletes, only if such policies, practices, or criteria are different for athletes as compared to the general student body

   c. determining whether sports will be added (and, if so, what sports) to the men's and women's intercollegiate athletic programs; include copies of any reports discussing the growth of the athletics program and copies of any surveys or assessments conducted of students' athletic interests and abilities and the date(s) and results of the surveys or assessments

   d. providing, maintaining, and replacing equipment and supplies, including any replacement schedules

   e. establishing competitive and practice schedules

f. permitting pre-season or post-season competition

g. providing travel arrangements and per diem allowances

h. providing tutoring services to male and female athletes, including the qualifications, experience, and rates of pay for tutors

i. determining the number of coaches (full time, part time, head, assistant and graduate or student assistants) assigned to teams

j. determining the use and availability of locker rooms, practice, and competitive facilities

k. providing medical and training facilities and services to male and female athletes

l. providing athletes with special housing, dining facilities or arrangements, and services including any special preference given to athletes in allocating dormitory space

m. providing publicity services to men's and women's intercollegiate athletic programs

n. providing administrative, secretarial, and clerical support services to the men's and women's intercollegiate athletics programs

o. recruiting student athletes, including any differences in recruiting male and female athletes

6. For the current year and previous year, for each athlete who receives (received) athletic financial assistance, the team on which the athlete competes, the amount of aid that was awarded to each athlete, and what expenses the award covered; also, please describe what expenses are covered by a full athletic scholarship for men and women and the dollar value of each of these expenses, including the cost of in-state and out-of-state tuition.

7. A current list of club and intramural sports and the number of participants by sex participating in each club and intramural sport.

8. The competitive and practice schedules for each intercollegiate athletic team (varsity, junior varsity, etc.) for the current year (or the previous year if not yet established), including the starting date of the first practice session for each team. If organized practice/competitive sessions are also scheduled for the team outside the regular season (for example, fall baseball or fall golf), please provide specifics.

9. A list of teams by sex that competed in post-season events, a list of the events, the schedule of competition, and a list of those teams by sex that qualified for such competition but did not compete. Also, please provide the same information for individual athletes when post-season competition is offered for individual entrants in addition to or in lieu of team competition.

10. A list of teams by sex that competed in exhibition or scrimmage games, the schedule of competition, and those teams by sex that had opportunities for such competition but did not compete.

11. A list of the modes or methods of transportation (institutionally-owned vehicles - be specific as to car, van, bus, or plane; privately-owned vehicles; commerical vehicles - bus, train, or plane) used by each team for each competition. Also, for each away competition, whether the team stayed overnight.

12. For each team, the size of the travel squad and the names and positions of additional personnel (including student assistants) who travel with the team to away games.

13. The per diem allowance for male and female intercollegiate athletes, by team if possible.

14. A list of the names of all varsity, junior varsity, and freshman coaches by team, with the following (or similarly relevant) information regarding their assignment:

    a) head
    b) assistant
    c) graduate or student assistant
    d) full time or part time as a coach (indicating percentage of full time)
    e) length of contract or assignment, for example, 9 months, 12 months
    f) other non-coaching duties at the institution (if appropriate), for example, Associate Professor for Physical Education, Counselor, Director of Transportation, etc., indicating percentage of time
    g) salary

15. A listing of all locker rooms, practice, and competitive facilities used by each team, indicating the name and general age of the facility, whether it is on or off campus, and whether the facility is used exclusively by certain teams or programs. Also, please include a schedule showing when any facilities are used for practice and how long the locker rooms are assigned for use by each team (for example, competitive season only, all year, etc.) You may wish to provide a copy of the campus map to indicate the location of all facilities.

16. A list of each weight, training, and conditioning facility available to athletes, indicating the teams, by sex, using the facility, the schedule of use, the location of the facility and, if available, a list of the name and type of equipment in each facility.

17. For each team, a list of the names of any trainers and any medical personnel assigned to the team; the certification of each trainer; if a student trainer, the number of years that person has been a student trainer; which trainers accompany the team to away games.

18. Copies of any health, accident, and injury insurance policies available to athletes of both sexes, and the cost of each policy to the athletes (if any). General policies available to all students at the institution need not be provided.

19. A list of the special housing and dining facilities, if any, provided to athletes, indicating the locations, the capacity, and the teams, by sex, that use the facilities. Include by team a list of such facilities provided for athletes during school breaks or early return to campus. Also, if applicable, indicate for which teams the institution provides training tables and/or pre-game meals before home games.

20. A description of the types of publicity or promotional services the institution makes available to the men's and women's intercollegiate athletic programs, including the name(s) and title(s) of person(s) in charge.

21. Any available organizational charts showing the lines of authority for all persons involved in intercollegiate athletics, indicating the administrative and clerical support personnel assigned to each organizational unit; for each organizational unit in the athletic department(s) (including teams), a list of the names of all personnel assigned to that unit and their titles; for student personnel, please indicate whether they are on work-study.

22. If the institution recruits student athletes, for each team: the area of recruitment, names of personnel who recruit, and for the previous year, a listing of recruitment trips made by each person; also, for the current year and previous year, for each team, the number of prospective athletes who were invited to and visited campus as part of a recruitment effort and, of these, the number of prospective athletes who had their trip to campus subsidized by the institution.

23. Any other available information that might help OCR to understand the institution's intercollegiate athletics program.

Interscholastic Athletics Data Request

Please provide the following information. Unless otherwise indicated, please provide data for the current year. Where written documents are not available, please provide a description of the benefit or service.

General

1. A list of all teams, including any coed teams, in the interscholastic athletics program; the athletic association in which the boys' and girls' programs are members and the division level at which the teams compete, if pertinent; the date each team began interscholastic competition; and the eligibility lists for each team.

2. The current enrollment of students by sex.

3. Copies of any current publications of the athletic department available to the general public, including schedule cards, samples of game programs, promotional materials, and similar publications for each boys' and girls' team.

4. Copies for the current year and the previous year of budgets for the boys' and girls' interscholastic athletic programs (by team and line item, if possible) and a record of the expenditures for each program (by team and line item, if available) for the previous year. If available, a copy of the institution's management plan or similar document or those portions of the document that show budget projections or proposed program changes for the athletic program beyond the current year.

Athletic Financial Assistance

5. Does the institution provide financial assistance to students on the basis of athletic ability? If so, please provide the number of students by sex who have received such awards and the amount of each award.

Accommodation of Student Interests and Abilities

6. If available, copies of written policies, procedures, and criteria for determining whether sports will be added (and, if so, what sports) to the boys' and girls' interscholastic athletic programs; include copies of any reports discussing the growth of the athletics program and copies of any surveys or assessments conducted of students' athletic interests and abilities and the date(s) and results of the surveys or assessments.

7. A current list of club and intramural sports and the number of participants by sex participating in each club and intramural sport.

Provision of Equipment and Supplies

8. If available, copies of written policies, procedures, and criteria for providing, maintaining, and replacing equipment and supplies, including any replacement schedules.

Scheduling of Games and Practice Time

9. If available, copies of written policies, procedures, and criteria for establishing competitive and practice schedules and permitting pre-season or post-season competition.

10. The competitive and practice schedules for each interscholastic athletic team (varsity, junior varsity, etc.) for the current year (or the previous year if not yet established), including the starting date of the first practice session for each team. If organized practice/competitive sessions are also scheduled for the team outside the regular season (for example, fall baseball or fall golf), please provide specifics.

11. A list of teams by sex that competed in post-season events, a list of the events, the schedule of competition, and a list of those teams by sex that qualified for such competition but did not compete. Also, please provide the same information for individual athletes when post-season competition is offered for individual entrants in addition to or in lieu of team competition.

12. A list of teams by sex that competed in exhibition or scrimmage games, the schedule of competition, and those teams by sex that had opportunities for such competition but did not compete.

Travel and Per Diem Allowance

13. If available, copies of written policies, procedures, and criteria for providing travel arrangements and per diem allowances.

14. A list of the modes or methods of transportation (institutionally owned vehicles - be specific as to car, van, bus, or plane; privately-owned vehicles; commercial vehicles - bus, train, or plane) used by each team for each competition. Also, for each away competition, whether the team stayed overnight.

15. For each team, the size of the travel squad and the names and positions of additional personnel (including student assistants) who travel with the team to away games.

16. The per diem allowance for male and female interscholastic athletes, by team if possible.

Tutoring

17. Does the institution provide tutoring services to interscholastic athletes? If so, is this tutoring service different from that available to the general student body? If so, please explain.

Coaching

18. If available, copies of written policies, procedures, and criteria for determining the number of coaches (amount of time, head, assistant, and graduate and student assistants) assigned to teams.

19. A list of the names of all varsity, junior varsity, and freshman coaches by team, with the following (or similarly relevant) information regarding their assignment:

    a) head
    b) assistant
    c) graduate or student assistant
    d) amount of time as a coach
    e) length of assignment and terms of contract; include copy of contract
    f) other non-coaching duties at the institution and the amount of time allocated for these duties
    g) salary or stipend for coaching

Provision of Locker Rooms, Practice and Competitive Facilities

20. If available, copies of written policies, procedures, and criteria for determining the use and availability of locker rooms and practice and competitive facilities.

21. A listing of all locker rooms and practice and competitive facilities used by each team, indicating the name and general age of the facility, whether it is on or off campus, and whether the facility is used exclusively by certain teams or programs. Also, please include a schedule showing when any facilities are used for practice and how long the locker rooms are assigned for use by each team (for example, competitive season only, all year, etc.) You may wish to provide a copy of the campus map to indicate the location of all facilities.

Provision of Medical and Training Facilities and Services

22. If available, copies of written policies, procedures, and criteria for providing medical and training facilities and services to male and female athletes.

23. A list of each weight, training, and conditioning facility available to athletes, indicating the teams, by sex, using the facility, the schedule of use, the location of the facility and, if available, include a list of the name and type of equipment in each facility.

24. For each team, a list of the names of any trainers and any medical personnel assigned to the team; the certification of each trainer; if a student trainer, the number of years that person has been a student trainer; which trainers accompany the team to away games.

25. Copies of any health, accident, and injury insurance policies available to athletes of both sexes, and the cost of each policy to the athletes (if any). General policies available to all students at the institution need not be provided.

Provision of Housing and Dining Facilities and Services

26. Does the institution provide any special housing or dining services to interscholastic athletes (this may include any pre-game meals or housing provided before special events, but not while on travel to away events)? If so, please explain.

Publicity

27. If available, copies of written policies, procedures, and criteria for providing publicity services to boys' and girls' interscholastic athletic programs.

28. A description of the types of publicity or promotional services the institution makes available to the boys' and girls' interscholastic athletic programs, including the name(s) and title(s) of person(s) in charge.

Support Services

29. If available, copies of written policies, procedures, and criteria for providing administrative, secretarial, and clerical support services to the boys' and girls' interscholastic athletics programs.

30. Any available organizational charts showing the lines of authority for all persons involved in interscholastic athletics, indicating the administrative and clerical support personnel assigned to each organizational unit; for each organizational unit in the athletic department, a list of the names of all personnel assigned to that unit and their titles.

Recruitment

31. Does the institution recruit student athletes? If so, please explain the methods used, and include any written policies and procedures.

TAB C

INSTRUCTIONS FOR THE MODEL LETTER OF FINDINGS

The model letter of findings is included in the manual to provide specific instructions, where necessary, for presenting information under each program component to be addressed in a letter of findings, and to provide a format for presenting the information. Any "model" language that is provided is suggested, not required, language. Instructions are presented in brackets and bold type to distinguish them from the model language. The term program "area" is used to refer to program "components" to simplify the discussion and not burden institution officials with distinctions between components, factors, etc., in the LOF.

As with the other model documents in this manual, the model LOF addresses an investigation for an entire athletics program. To adapt the model LOF to interscholastic athletics investigations, the following basic modifications are recommended:

1. Eliminate any model language suggesting a review of the total athletics program unless the entire interscholastic athletics program is being investigated.

2. Where the total program is not reviewed, issue findings for each program component as compliance, a disparity (if not sufficient to establish a violation), or a violation; if disparities individually are not significant enough to establish a violation, make an overall determination regarding whether the disparities collectively result in a violation.

3. Eliminate any sections addressing program components not included in the investigation.

4. Change references to "intercollegiate" and "men's and women's" to "interscholastic" and "boys' and girls."

5. When accommodation of student interests and abilities and athletic scholarships have not been investigated, a description of the overall program should be provided near the beginning of the LOF. This program description should include the sports offered to boys and girls and the number of boys and girls participating in the athletics program.

GENERAL PRINCIPLES

The following are some general instructions, several of which were noted in the March 26, 1982, guidance for writing LOFs, that deserve repeating. The following should be used in the discussion for every program component.

1. Discuss each program component investigated and each factor listed in the Policy Interpretation for each program component.

2. Provide parallel information. Do not state what was provided to the women's program without stating what was provided to the men's program. Follow the same principle for teams; in effect, do not state what was provided to some teams without stating what was provided to other teams. For example, where seven teams are offered to women, do not simply state, "Five women's teams were provided all equipment and supplies," thus, leaving the reader to guess what was provided to the other two teams. State what was provided to the other two teams. Also, state which men's teams were provided equipment and supplies.

3. Be specific but not trivial. Do not state simply that a benefit is provided on an equivalent basis. State on what basis this conclusion is made and the number of teams affected. Also, be specific about which teams are affected. For example: "Five of the seven women's teams were provided with all equipment and supplies. The remaining two women's teams were provided all equipment and supplies except for warm-ups." Such a statement is fine as far as it goes. A better statement is: "Five of the seven women's teams were provided with all equipment and supplies (in effect, basketball, softball, tennis, swimming, and field hockey). The remaining two women's teams were provided all equipment and supplies except for warm-ups (in effect, gymnastics and volleyball). These statements on the women's program should be followed by similar statements for the men's program.

   Trivial information such as the number of shower heads in locker rooms, the number of pages in recruitment brochures, etc., does not belong in the LOF. The investigator should collect and make note of all information, including numbers of pages and shower heads, but references to trivial information, if applicable, belong in the investigative report or other file documents, not the LOF. Instead, if the LOF must make reference to less significant services or facilities, make general, comparative statements, such as "Twice as many facilities were available to the men's teams as compared to the women's teams."

4. Describe a disparity in terms of the number of teams affected, for example, "Eight out of ten women's teams . . ." or by percentage of athletes affected where team size varies greatly, in effect, "Three women's teams, comprising 72% of the participants in the women's program . . . ." Also, the magnitude of a disparity differs with program size. For example, a benefit that affects one team is of more importance where only four teams are offered than where 12 teams are offered.

5. Make positive statements such as, "coaches and athletes considered the services adequate," rather than negative statements such as, "there were no complaints of problems."

6. Do not include information not needed to understand the findings or conclusions.

7. Use the titles of recipient staff, not their names.

8. Do not say benefits were "apparently" provided, state whether they were or were not provided.

9. Do not include information that would be embarrassing to the institution or the complainant and is not needed for the findings.

10. Use language carefully. Do not make references to "female basketball" or "male basketball," implying that a basketball may be of a particular sex. Avoid statements such as the following, which have appeared in LOFs: "The women's basketball team has no balls. They borrowed balls from the men's basketball team[,]" and "Trainers serviced only female athletes."

TITLE IX ATHLETICS MODEL LETTER OF FINDINGS

Dear ________________:

The Office for Civil Rights (OCR) of the Department of Education has completed the investigation of (institution name's) (intercollegiate or interscholastic) athletics program. This investigation was conducted under the authority of Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 et seq. (Title IX), and its implementing regulation at 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in programs or activities receiving Federal financial assistance from the Department of Education. Athletics programs are specifically addressed at 34 C.F.R. § 106.41, and athletics scholarships are addressed at § 106.37(c) of the Title IX regulation. As a means of assessing compliance, OCR follows the Policy Interpretation issued December 11, 1979, 44 Fed. Reg. 71413 et seq. (1979). Copies of the Title IX regulation and the Policy Interpretation are enclosed **[do not enclose if provided with earlier correspondence]**.

The complainant alleged that (institution name) discriminates on the basis of sex by not providing (equal opportunity in athletics - **or, preferably, list the specific program components in the complaint**). (or The compliance review was scheduled to determine whether) (institution name) provides equal opportunity in its athletics program. In accordance with the Policy Interpretation, OCR reviewed (institution name's) athletics program in the following major areas:

1) athletic financial assistance - § 106.37(c); and,

2) (a) whether the selection of sports and levels of competition equally effectively accommodate the interests and abilities of members of both sexes - § 106.41(c)(1); and,
   (b) whether other benefits and services for male and female athletes are equivalent - § 106.41(c)(2) through (10), and support services and recruitment of student athletes.

In each program area, OCR examined whether the availability and quality of benefits, opportunities, and treatment provided were equivalent for members of both sexes. Equivalent is defined as equal or equal in effect. In accordance with the Policy Interpretation, OCR compared the men's program and the women's program on an overall basis, not on a sport-by-sport basis that would compare, for example, men's basketball and women's basketball. Where disparities were noted, OCR considered whether the differences were negligible. Where the disparities were not negligible, OCR determined whether they were the result of nondiscriminatory factors. Finally, OCR determined whether disparities resulted in the denial of equal opportunity to male or female athletes, either because the disparities collectively were of a substantial and unjustified nature or because the disparities in individual program areas were substantial enough by themselves to deny equality of athletic opportunity.

The Title IX regulation at 34 C.F.R. § 106.41(c) does not require equal aggregate expenditures for men's and women's programs. However, OCR may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex. Where appropriate, OCR considers the level of funding for men's and women's programs in assessing the equivalence of benefits and opportunities.

Summary of Findings

Athletic Financial Assistance

OCR found that, in (19_-_), female athletes at (name of institution) comprised (40%) of all participants in the intercollegiate athletics program, but they received only (20%) of the financial assistance. Male athletes comprised (60%) of all participants and received (80%) of the financial assistance. The total amount of athletic financial assistance made available to men and women must be substantially proportionate to their participation rates. The (20%) difference between the participation rates and the proportion of athletic financial assistance awarded constitutes a significant difference between the awards to men and women and does not comply with 34 C.F.R. § 106.37(c).

[The section of the manual on athletic financial assistance instructs the investigator to obtain information for two years, the current year and previous year. Discuss information for both years as above.]

Accommodation of Interests and Abilities

Men comprise (56%) of the full time undergraduate students while women comprise (44%). Men comprise (60%) of the participants in the athletics program while women comprise (40%). The (University) offers nine teams to men and ten teams to women. Male and female students are provided with equivalent competitive opportunities in athletics.

All nine of the men's teams and eight of the women's teams compete at the (NCAA division I) level and all opponents are at the same division level. However, two women's teams **[name the sports]** each have (35%) of their contests scheduled with opponents below their normal competitive level. The regulation requires that the levels of competition provided for male and female athletes be equivalent. This disparity in levels of competition affects (14%) of the female participants in the athletics program. While this disparity is not significant enough to constitute a violation, this disparity was considered collectively with disparities in other program areas under § 106.41(c) as described below.

Other Program Areas

OCR finds that (name of institution) is providing male and female athletes equivalent benefits and opportunities in the following areas: **[list program components]**.

OCR finds that benefits, opportunities, and treatment available to (female) athletes are not equivalent to those provided to (male) athletes in the following areas: **[list program components]**.

(Name of institution) has agreed to implement a plan that would remedy these disparities. Therefore, (name of institution) is in compliance with § 106.37(c) regarding athletic scholarships and § 106.41(c) regarding athletics. Continued compliance is contingent upon the institution's implementing the agreed upon actions as set forth in its corrective action plan. (or, name of institution is not implementing a plan that would remedy these disparities. Therefore, name of institution is in violation of 34 C.F.R. ___________ or, name of institution is in compliance with the requirements of the Title IX regulation at 34 C.F.R. § 106.37(c) and § 106.41(c).)

The following provides a more complete description of the background, scope, and method of investigation, states the factual findings of the investigation, and describes the bases for the conclusions. The findings are divided into two principal parts:

1) Athletic Financial Assistance (§ 106.37(c)), and
2) Accommodation of Student Interests and Abilities and Other Program Areas (§ 106.41(c)).

Method and Scope of Investigation

On (date), OCR notified (name of institution) that it planned to conduct an investigation of the intercollegiate athletics program based on the complaint filed with OCR on (date). The complainant alleged that (name of institution) discriminated against (female) athletes in [list program component areas]. By letter of (date), OCR requested (name of institution) to provide information on its intercollegiate athletics program, including descriptions of athletics program policies and procedures, budgets, expenditure reports, athletic financial aid data, copies of competitive schedules, and lists of personnel and facilities for each team. OCR conducted an on-site investigation of the overall intercollegiate athletics program from (date) to (date). The investigative team visited the athletics facilities and interviewed athletics department administrative staff, other university officials, all men's and women's head coaches, some assistant coaches, and athletes from most intercollegiate teams. The investigators reviewed documents such as student financial aid files, publicity materials and budget requests. The investigation covered the following areas:

1. Athletic financial assistance;
2. Accommodation of student interests and abilities;
3. Provision of equipment and supplies;
4. Scheduling of games and practice time;
5. Travel and per diem allowance;
6. Opportunity to receive academic tutoring and assignment and compensation of tutors;
7. Opportunity to receive coaching and assignment and compensation of coaches;
8. Provision of locker rooms and practice and competitive facilities;
9. Provision of medical and training facilities and services;
10. Provision of housing and dining facilities and services;
11. Publicity;
12. Support services;
13. Recruitment of student athletes.

Each allegation raised in the complaint against (name of institution) is addressed under the most appropriate program area.

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The Title IX regulation establishes separate legal standards for the provision of equal opportunity in athletic financial assistance (34 C.F.R. § 106.37(c)) and for the provision of equal athletic opportunity in program areas other than athletic financial assistance (34 C.F.R. § 106.41(c)). In addition, the Policy Interpretation permits a separate finding for the accommodation of student interests and abilities (34 C.F.R. § 106.41(c)(1)), which is central to the provision of equal athletic opportunity. The discussion below follows the factors listed in the Policy Interpretation and is, therefore, divided into three major sections: athletic financial assistance, effective accommodation of student interests and abilities, and other program areas. In accordance with the Title IX regulatory standards, findings are divided into two major areas: athletic financial assistance and other program areas in which accommodation of interests and abilities is incorporated. The sections below include a description of the factors reviewed for assessing compliance, followed by a presentation of facts drawn from documents or interviews, and an analysis of the facts. Each section concludes with OCR's determination for that section.

ATHLETIC FINANCIAL ASSISTANCE

The Title IX Regulation - Section 106.37(c) of the Title IX regulation provides: [Institutions] must provide reasonable opportunities for [awards of financial assistance] for members of each sex in proportion to the number of students of each sex participating in . . . intercollegiate athletics.

The Policy Interpretation - Under the December 11, 1979, Policy Interpretation, OCR examines compliance with this section of the regulation by means of a financial comparison to determine whether proportionately equal amounts of financial assistance (scholarship aid) are available to women's and men's athletics programs. OCR measures compliance with this standard by dividing the amounts of aid available for the members of each sex by the numbers of male and female participants in the athletic program and comparing the results. Institutions may be found in compliance if this comparison results in substantially equal amounts or if a resulting disparity can be explained by adjustments to take into account legitimate, nondiscriminatory factors.

Participants are defined as those athletes:

a. Who are receiving the institutionally-sponsored support normally provided to athletes competing at the institution involved, e.g., coaching, equipment, medical and training room services, on a regular basis during a sport's season; and

b. Who are participating in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and

c. Who are listed on the eligibility or squad lists maintained for each sport; or

d. Who because of injury, did not meet a, b, or c above but continued to receive financial aid on the basis of athletic ability.

To establish the number of participants, OCR examined the (NCAA, NAIA, NJCAA, etc.) eligibility lists prepared by the (name of institution) for [list the current and previous academic years]. These lists were reviewed with head coaches and other athletics program staff. Students who did not meet the definition were not included in the count.

[Include information on:

1. **the number of male and female participants and the percentage of male and female participants in the athletics program - count athletes only once, even if they participate on more than one team**

2. **the total amount of scholarship aid awarded - not budgeted - and the percentage of the amount awarded to male and female athletes.**

For example:

In 19_-_, there were 120 (60%) male and 80 (40%) female participants in the athletics program. That year, male participants received $150,000 (75%) of the scholarship aid awarded while female participants received $50,000 (25%) of the aid awarded. In 19_-_, there were 126 (60%) male and 84 (40%) female participants in the athletics program. That year, male participants received $149,000 (71%) of scholarship aid awarded while female participants received $60,900 (29%) of aid awarded.]

OCR applied two statistical tests, the "Z" test and the "T" test, to assist us in determining whether any disparities found between the proportions of athletic financial assistance and participation rates were significant.

[If a disparity is found, include an analysis of any nondiscriminatory factors that may affect the finding or that the institution has offered as a justification for a disparity. Remember that OCR investigative experience indicates that differences in aid that are the result of in-state and out-of-state tuition are often the result of disparities in the recruitment of student athletes. Where this is the case, the LOF should explain that:

> **Although the institution has indicated that the difference between in-state and out-of-state tuition accounts for the disparity in the award of financial assistance to male and female students, OCR found that the limited award of out-of-state tuition to female athletes as compared to male athletes was the direct result of discriminatory practices in the recruitment of student athletes. Discriminatory policies or practices in one program area may not be used to justify disparities in other program areas. The differences in aid awarded to male and female athletes are not the result of nondiscriminatory policies. Therefore, (name of institution) is in violation of § 106.37(c). (See the section below addressing recruitment of student athletes for an explanation of the determination for that program area).]**

Determination of Compliance for Athletic Financial Assistance

The total amount of athletic financial assistance made available to men and women must be substantially proportionate to their participation rates in the intercollegiate athletics program. This standard (was/was not) met by (name of institution). (No acceptable nondiscriminatory reasons for the disparity have been provided by (name of institution)). (Name of institution) (is/is not) providing reasonable opportunities for (women) to be awarded financial assistance and, therefore, (is/is not) in compliance with 34 C.F.R. § 106.37(c).

[If a corrective action plan has been obtained, conclude by stating:

> **Although, at present, athletic financial assistance at (name of institution) is not available to men and women in proportion to the participation rate of each sex in the athletics program, (name of institution) is found to be in compliance with 34 C.F.R. § 106.37(c) of the Title IX regulation because it is implementing a plan to correct the disparity within a reasonable period of time. OCR will monitor the progress of the plan to ensure that it is implemented and is effective in correcting the disparity found.**

A general statement of intended corrective action with only the very basic details is sufficient for the LOF. A copy of the corrective action plan may be attached as an appendix to the LOF to include it as part of OCR's official findings.]

EFFECTIVE ACCOMMODATION OF STUDENT INTERESTS AND ABILITIES

The regulation requires institutions to accommodate effectively the interests and abilities of students to the extent necessary to provide equal opportunity in the selection of sports and the levels of competition available to members of both sexes.

In effectively accommodating the interests and abilities of male and female athletes, institutions must provide the opportunity for individuals of each sex to participate in intercollegiate competition and to have competitive team schedules that equally reflect their abilities.

OCR's determination involves a two part analysis regarding: 1) equal opportunities to compete, and 2) levels of competition.

OCR considered three factors consecutively to address equal opportunities to compete:

1. Whether intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or

2. Where the members of one sex have been and are underrepresented among intercollegiate athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of that sex; or

3. Where the members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a continuing practice of program expansion such as that cited above, whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.

[Include the following information:

1. **The number of participants in the men's and women's athletic programs;**
2. **The enrollment of full time undergraduate students at the institution; and**
3. **All teams offered to men and women.**

If the participation ratios are proportionate to the enrollment ratio, then steps two and three above need not be discussed. If the participation ratios are not proportionate, then it will be necessary to discuss the history of the athletics program, that is, when teams were added and why. If there is no evidence supporting recent additions (the last three years should be used) for the underrepresented sex, then a discussion of whether the current program accommodates interests and abilities is necessary. The LOF should address how the institution determined what sports to add, which may include information regarding whether students have expressed interests in any sports, participation rates in club or intramural sports, sports offered at feeder schools, and sports popular in the region.

The discussion should be concluded by stating whether the institution is providing equivalent opportunity for individuals of each sex to participate in intercollegiate athletics.]

OCR considered two factors consecutively to address levels of competition:

1. Whether the competitive schedules for men's and women's teams, on a program-wide basis, afford proportionately similar numbers of male and female athletes equivalently advanced competitive opportunities; or

2. Whether the institution can demonstrate a history and continuing practice of upgrading the competitive opportunities available to the historically disadvantaged sex as warranted by developing abilities among the athletes of that sex.

[Include the following information:

1. **The level of competition, for example, NCAA Division I, II, or III, at which the institution has declared its teams**

2. **A chart may be included, such as the program comparison chart for this program component showing the percentage of games above or below the declared division level**

Include a discussion of whether any coaches or participants expressed an interest at competing at a higher or lower level. For example, NCAA rules require that certain numbers of sports compete at the declared division level. The result is that institutions declare a certain competitive level based on the major sports they offer while the sports with less emphasis, which also have to compete at the same division level, may not be skilled enough

for that division because of less emphasis on coaching or recruiting for those teams. If coaches or participants have asserted that their team should be competing at a higher or lower division level, OCR should review whether there is supporting evidence such as win/loss records or margins of victory.

State whether the evidence shows equivalence in levels of competition.

Make a conclusory statement regarding equivalence for this program component.]

OTHER PROGRAM AREAS

OCR examined whether (name of institution) provides male and female athletes with benefits, opportunities and treatment that are equivalent in availability, quality and kind. Generally, the analysis is organized according to the factors listed for each program area in the Policy Interpretation. We compared benefits, opportunities, and treatment within each factor of a given program area. If a difference was found, we considered whether the difference was the result of a nondiscriminatory factor.

OCR weighed the effect of any such disparities to determine whether they result in the denial of equal athletic opportunity to male and female athletes because the disparities are collectively of a substantial or unjustified nature and affect the institution's program as a whole, or because the disparities in individual program areas are substantial enough by themselves to deny equality of athletic opportunity. OCR's findings in each program area are presented below.

Equipment and Supplies - 34 C.F.R. § 106.41(c)(2)

Equipment and supplies include but are not limited to uniforms, other apparel, sport-specific equipment and supplies, general equipment and supplies, instructional devices, and minor conditioning and weight training equipment.

In assessing compliance in this area, OCR considered the quality, amount, suitability, and availability of equipment and supplies and the maintenance and replacement policies and practices of the institution regarding equipment and supplies.

[Discuss each factor, making comparison statements for the men's and women's programs and clarifying the number of teams affected by benefits provided for each factor. Do not include bras or athletic supporters in any discussion that may be necessary regarding uniforms.

Make a conclusory statement regarding equivalence for this program component.]

Scheduling of Games and Practice Time - 34 C.F.R. § 106.41(c)(3)

In assessing compliance in this area, OCR considered the number of competitive events per sport, the time of day that competitive events and practice opportunities are scheduled, the number and length of practice opportunities, and the opportunities to engage in pre-season and post-season competition.

[Include in this section a chart showing the number of competitive events for each team. For example:

Sport	Men	Women
1. basketball	26	22
2. baseball	52	
3. softball		36
4. swimming	12	12
5. track	20	15
6. tennis	34	26
7. gymnastics		10
8. football - varsity	11	
junior varsity	5	
9. field hockey		14

Briefly discuss what the statistics represent, whether any team has a low number of events scheduled and explain that such a determination is based on the opinions of coaches and athletes. Also, comparisons of the same sport for men and women indicate whether one team may have a low number of events scheduled. However, the discussion should not indicate that OCR has assessed the program on a sport-by-sport basis since a low number of events in one sport may be offset by a high number of events, comparatively, in another sport. Also, if there is a low number of events scheduled for a particular team, it may be that there is limited competition in the competitive region for that particular sport. If so, this should be stated.

The practice schedules for each team might be presented most simply by including a chart in the LOF. If all teams practice at the same time, a narrative statement might suffice.

Make a conclusory statement regarding equivalence for this program component.]

Travel and Per Diem Allowance - 34 C.F.R. § 106.41(c)(4)

In assessing compliance in this area, OCR considered modes of transportation, housing and dining arrangements furnished during travel, length of stay before and after competitive events, and per diem allowances.

[Discuss each factor. The modes of transportation should focus on whether the same types of transportation were used for trips of similar distances. Any differences might be explained by the size of the travel squad or amount of equipment. If so, this should be stated.

For housing provided during travel, although the investigator has been instructed to request the names of the hotels in the section of the manual regarding this program component, do not use motel or hotel names in the LOF. Discuss instead the quality or price, such as "moderately priced motels of similar quality." If there are differences between the men's and

women's programs in the number of athletes assigned per room, state this in the LOF. Otherwise, state that the same number of athletes is assigned to rooms during travel for both men's and women's programs.

If expenditure information is used to support a noncompliance finding, make certain that the number of participants on the travel squad is used in any calculations. This number is usually less than the number of participants on the team.

Make a conclusory statement regarding equivalence for this program component.]

Opportunity to Receive Academic Tutoring and the Assignment and Compensation of Tutors - 34 C.F.R. § 106.41(c)(5) and (6)

In assessing compliance in this area, OCR considered:

Availability:	the relative availability of academic tutoring to male and female participants
Assignment:	the qualifications and experience of tutors
Compensation:	the allocation of funds for tutoring

[If no special tutoring or academic counseling services are provided to athletes, as distinguished from the general student body, simply state this fact. Do not make any other conclusory statement indicating compliance or noncompliance. There is always the possibility of sex discrimination in the tutoring program for the general student body but the investigation of the athletics program will not address this.

If special tutoring or academic counseling services are provided to athletes, then discuss each factor above, and make a conclusory statement regarding equivalence for this program component.]

Opportunity to Receive Coaching and the Assignment and Compensation of Coaches - 34 C.F.R. § 106.41(c)(5) and (6)

In assessing compliance in this area, OCR considered:

Availability:	the relative availability of full time, part time, and graduate or student assistants
Assignment:	the training, experience, and other professional qualifications of coaches
Compensation:	the allocation of funds for coaching to the men's and women's programs

[Availability: Include a chart for this discussion showing the number of coaches assigned to each team. Explain that a full time coach is someone with 100% coaching duties for 12 months. Attempt to determine the full time equivalence (FTE) ratios for coaches and include this information on the chart. As noted in the manual section addressing this program component, the FTE ratios have some significance, but the number of coaches available to each team is also important. Charts may vary, but should include information on FTE numbers, numbers of participants, and numbers of coaches. For example:

Men's Teams	Participants	full time coaches	part time coaches	full time equivalence
football	110	8	5 @ 25%	9.25
basketball	14	3	1 @ 50%	3.5
baseball	38	2	1 @ 25%	2.25
etc.	Total			Total
Women's Teams				
basketball	13	2		2.0
softball	17		1 @ 60%	.6
golf	9		1 @ 40%	.4
etc.	Total			Total

Do not include graduate students in the FTE ratios unless the graduate student is acting in the capacity of a head coach. Provide a narrative summary of the chart. Note the advantages of having assistant coaches and full time coaches (the primary advantage is more individual instruction for participants) where differences in the men's and women's programs necessitate this discussion.

Assignment: Discuss only the qualifications of coaches in this section. Consider years of experience, experience coaching in college, high school, or another level, and any indications of outstanding stature in a particular sport. If there is a significant difference in the qualifications of coaches in the men's and women's programs, consider the recruiting and hiring criteria used by the institution. Identical qualifications are not required, only equivalent qualifications.

Compensation: State the total funds allocated to compensate coaches for the current year. Then state the dollar amount and the percentage of the total funds given to the men's and women's programs and indicate the participation rates of men and women in the athletic program. Do not make a conclusory statement for this section or the other two sections. In particular, it is difficult to assert that the differences in pay to coaches have an adverse effect on student athletes where availability and qualifications are equivalent.

Review the section of the manual addressing the coaching program component carefully in preparing this section of the LOF.

Make a conclusory statement regarding equivalence for the program component, such as "the institution (is/is not) providing equivalent coaching to male and female athletes."]

Provision of Locker Rooms, Practice and Competitive Facilities - 34 C.F.R. § 106.41(c)(7)

In determining whether there is equivalence in this program area, OCR examined the quality, availability, and exclusivity of use of facilities provided for practice and competitive events, the maintenance and preparation of facilities for practice and competitive events, and the availability, quality, and exclusivity of locker rooms.

[Discuss each of the factors. The discussion might be simplified by separating the program area into two parts: 1) locker rooms, and 2) practice and competitive facilities.

Locker rooms: Do not include trivial details like the number of toilets, showers, or lockers in the LOF. Concentrate on the number of locker rooms, whether the rooms are used exclusively by athletes on a single team or shared with others, and whether the rooms are large enough and have enough lockers of adequate size for the teams using them.

Practice and Competitive Facilities: Discuss quality, availability, exclusivity of use, maintenance, and preparation of facilities. Indicate which teams use which facilities. A chart might be a useful way to present this information.

Make a conclusory statement regarding equivalence for this program component.]

Provision of Medical and Training Facilities and Services - 34 C.F.R. § 106.41(c)(8)

In assessing compliance in this area, OCR considered the following factors: 1) the availability of medical personnel and assistance; 2) health, accident, and injury insurance coverage for participants; 3) weight and conditioning facilities; 4) the availability and qualifications of athletic trainers; and 5) the quality and availability of training facilities.

[The discussion for this program component should be divided into the five factor areas with a subheading identifying each factor. Discuss when physicians and other medical personnel are available to teams. Note whether any insurance has different premiums charged to athletes on the basis of sex (usually the institution covers all premiums) or whether there are differences in any deductibles that may be charged to athletes on the basis of sex. Discuss the adequacy of the weight and conditioning facilities and the training facilities and whether they are equivalent and whether teams of one sex are scheduled for more convenient hours. Discuss whether trainers are full time or part time, and whether they are available for practices and competitions. Also, discuss the qualifications of trainers.

Make a conclusory statement regarding equivalence for this program component.]

Provision of Housing and Dining Facilities and Services - 34 C.F.R. § 106.41(c)(9)

In assessing compliance in this area, OCR considered the housing and dining facilities and related special services.

[In addition to describing and comparing any special housing and dining arrangements for athletes during the school year, indicate whether any teams are provided with housing or dining facilities during semester breaks or before the school year begins, special housing facilities the night before a home game, or special pre-game meals.

Make a conclusory statement regarding equivalence for this program component.]

Publicity - 34 C.F.R. § 106.41(c)(10)

In assessing compliance in this area, OCR considered the availability and qualifications of sports information personnel, the services they provided, other publicity resources, and the quantity and quality of publications featuring men's and women's programs.

[Discuss each factor. Include information on the qualifications of the sports information personnel and which individuals attend home and/or away events. List the types and amounts of publications provided for each team and give a general description of the comparative quality of these publications. Do not include trivial details on the number of pages or the colors of publications except perhaps to note color versus black and white. If comparisons in publications are important to the determination for this program component, discuss the differences in terms of levels of quality. Make sure any statements are comparative. For example, do not make statements such as "game programs for the women's teams were of poor quality." Instead, state that "game programs for the men's teams were of higher quality or 'much higher quality' than programs for the women's teams." Also, public interest and media demand may not be controlled by the institution, but what the institution is doing to generate public interest and media demand is an important consideration for this program component and should be discussed.

Make a conclusory statement regarding equivalence for this program component.]

Support Services - 34 C.F.R. § 106.41(c)

In assessing compliance in this area, OCR considered the amount of administrative, secretarial, and clerical assistance, and the availability of office space, equipment, and supplies for the men's and women's programs.

[Discuss each factor, including the number and types of personnel available to each program and whether they are full or part time. Discuss available office space and equipment. Note whether coaches have individual offices if there are differences in availability of office space. Individual offices can be important for counseling and recruiting athletes. If there is equivalence for the factors, make a general statement, but not too general a statement. For example, state that "all coaches have individual offices and equal access to telephone and WATS lines and other office equipment, and all office space and equipment were equally convenient for use by coaches." Such a statement provides some detail but does not trivialize the discussion in the LOF by discussing, for example, the number of square feet per office.

Make a conclusory statement regarding equivalence for this program component.]

Recruitment of Student Athletes - 34 C.F.R. § 106.41(c)

In assessing compliance in this area, OCR considered:

Whether coaches or other professional athletic personnel in the programs serving male and female athletes are provided with substantially equal opportunities to recruit;

Whether the financial and other resources made available for recruitment in men's and women's athletic programs are equivalently adequate to meet the needs of each program; and

Whether the differences in benefits, opportunities, and treatment afforded prospective student athletes of each sex have a disproportionately limiting effect upon the recruitment of students of either sex.

[The discussion should address which coaches recruit for each team and when they are available to recruit. Also, discuss the methods of recruitment and the method most relied upon by each team or program. Discuss the area of recruitment for each program and correlate this with whether recruitment is done by letters and phone calls or by scouting or subsidizing visits to campus.

Discuss whether the financial and other resources made available to the men's and women's programs have a disproportionately limiting effect upon the recruitment of students of either sex. Note the percentage of recruitment funds that are made available to the men's and women's programs. The section of the manual addressing this program component explains that this percentage should be compared to the percentage of athletes of each sex in the athletics program. This comparison is only an indicator. It is not determinative of compliance or noncompliance since there are several nondiscriminatory justifications for differences in recruitment. The availability of other resources should be discussed. Other resources may include access to a WATS line, recruitment brochures for mailing, and other benefits that often depend on the amount of funding provided.

Make a conclusory statement regarding equivalence for this program component.]

Overall Determination of Compliance in Other Program Areas

[This conclusion should address § 106.41(c)(1) - (10), support services, and recruitment. The detail of this conclusion is dependent on the specific case. The conclusion may be brief, stating that, "Equivalent benefits are provided for men and women in the program areas of (list the program components). Equivalent benefits are not provided for men and women in the program areas of (list the program components)." If the institution has agreed to a corrective action plan, make a general statement regarding the plan to correct the disparity for each program component, for example: "The institution has agreed to increase the allocation of recruitment funds to the women's program, which will remedy the disparity for

this program area during the current year." Lengthy details of the corrective action plan need not be discussed in the LOF. If the institution agrees to a corrective action plan, conclude with a statement such as the following:

> **(Name of institution) is implementing a plan to correct these disparities within (a reasonable period of time) and, thus, OCR finds (name of institution) to be in compliance with 34 C.F.R. § 106.41(c). OCR will monitor the progress of the plan to ensure that it is implemented and is effective in correcting the disparities found.**

Attach a copy of the plan to the LOF as an appendix, thus making it part of OCR's official findings.]

The following is standard format for OCR's LOFs:

> This letter of findings is not intended and should not be construed to cover any other issues that are not specifically discussed herein regarding compliance with the Title IX regulation.
>
> Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personal information which, if released, could constitute an unwarranted invasion of privacy.
>
> We wish to thank you and your staff for the cooperation extended to our investigators during the course of the investigation. If you have any questions, please do not hesitate to call (name, title, phone number).

Sincerely,

Regional Civil Rights Director

Appendix A

Men's Teams	Participants (Previous Year)	Participants (Current Year)
baseball	35	42
basketball	13	14
football	122	110
gymnastics	12	12
cross country	10	9
track	47	34
tennis	24	18
etc.		
Women's Teams		
basketball	15	14
cross country	10	10
golf	8	9
gymnastics	10	12
softball	17	18
swimming	27	19
tennis	11	9
etc.		

Appendix B

CORRECTIVE ACTION PLAN

OCR is required to ensure that the compliance agreement is implemented within a reasonable period. The (name of institution) shall provide OCR with the following information by ____date____.

1. list specifics of plan

2.

3.

TAB D

"Z" TEST AND "T" TEST

The "z" test and "t" test are used for determining whether differences in the awards of athletic financial assistance to male and female athletes are significant. If any differences are significant, and the institution cannot provide a nondiscriminatory justification for the differences, then a violation of 34 C.F.R. § 106.37(c) exists. The "z" test is used to determine whether the difference between the percentage of total aid awarded to athletes of one sex and the percentage of participants of that sex in the athletics program is significant (the "z" test may be conducted using the participant and financial aid data for either the men's program or the women's program, but the test need not be conducted for both programs). The "t" test is used to determine whether the difference between the average award to male and female athletes is significant.

The following demonstrates the procedures for conducting the "z" test and the "t" test. The sample athletics program below for the "z" test uses the same participation numbers and scholarship dollars as the example on pages 18 and 19 in the section of this manual addressing athletic financial assistance. The sample program for the "t" test uses different statistics and portrays a much smaller program since there are many more calculations involved in the "t" test. The examples below are intended to demonstrate the mechanics of conducting the "z" test and the "t" test for athletic financial assistance. Although both tests may be done using a calculator, the regional offices should use the available computer programs on Lotus for both tests. (See the explanations for using the computer programs on Lotus beginning on page 160.) The computer programs will ensure accuracy and greatly reduce the time necessary to conduct the tests. The "z" test and "t" test formulas have been presented for clarity in understanding how participation rates and scholarship dollars are incorporated into the formulas. Statistical symbols, which have specific meaning in the field of statistics but might prove confusing in the explanation below, have been replaced by the letters A, B, C, D, and E in the "z" test formula below.

"Z" Test Example

The "z" test is conducted as follows (using data describing the women's program):

---

1. $\dfrac{\text{Number of Female Participants + Aid Dollars to Female Participants}}{\text{Total Participants + Total Aid Dollars}} = A$

2. $1 - A = B$

3. $\sqrt{A \times B} = C$

4. $\sqrt{\dfrac{\text{Total Participants + Total Aid Dollars}}{\text{Total Participants} \times \text{Total Aid Dollars}}} = D$

5. $C \times D = E$

6. $\dfrac{\text{Percent of Female Participants} - A}{E} = z \text{ value}$

7. If the z value is greater than 1.96, then differences are significant (1.96 represents the 95% level of confidence that differences are significant).

"Z" test continued: Using the data for the women's program from the athletic financial assistance example on pages 18 and 19, the "z" test would yield the following result (data for the men's program may be substituted for the like data for the women's program in the formula and the z value would be the same.)

	Men	**Women**	**Total**
Participants:	197 (66.107%)	101 (33.892%)	298
Aid Dollars:	230,000 (72.327%)	88,000 (27.673%)	318,000

---

1. $\dfrac{101 + 88{,}000}{298 + 318{,}000} = .27679$

2. $1 - .27679 = .72321$

3. $\sqrt{.27679 \times .72321} = .44741$

4. $\sqrt{\dfrac{298 + 318{,}000}{298 \times 318{,}000}} = .05796$

5. $.44741 \times .05796 = .02593$

6. $\dfrac{.33892 - .27679}{.02593} = 2.3961$

7. z value = 2.3961. Because the z value is greater than 1.96, the difference in proportions is significant. Absent a nondiscriminatory justification, the institution is in violation of 34 C.F.R. § 106.37(c).

"T" Test

In order to conduct the "t" test, the investigator will need to know the amount of aid awarded to each individual athlete. This information should be obtained through the data request. The formula for the "t" test below uses figures for athletic financial assistance rather than statistical symbols.

$$t = \frac{\text{average award to men} - \text{average award to women}}{\text{pooled standard error}}$$

To conduct the "t" test involves calculating:

1. the average award to male and female athletes;
2. the standard deviation for the awards to male and female athletes;
3. the pooled standard error; and,
4. the degrees of freedom.

Once these have been calculated, the investigator then refers to a statistical table and determines whether the t value is greater than the value at the degrees of freedom noted on the table for the .05 level of significance. The example below explains the steps for calculating these figures.

---

1. To find the average award, the amount of aid awarded to each athlete must be added and then divided by the number of athletes. For example:

	Men		Women
1.	$1000	1.	$800
2.	950	2.	650
3.	800	3.	700
4.	900	4.	750
5.	850	5.	400
6.	975	6.	775
7.	950	7.	900
8.	875	8.	850
9.	900	9.	675
10.	850	10.	600
11.	975		$7,100
12.	875		
	$10,900		

$\frac{10,900}{12}$ = $908 is the average award to male athletes

$\frac{7,100}{10}$ = $710 is the average award to female athletes

"T" test continued:

2. The **standard deviation** is calculated for each sex by:

   a) calculating the difference between each individual award and the average award for that sex;
   b) squaring the difference for each individual;
   c) adding the squared differences for each individual;
   d) dividing the sum of the squared differences by the total number of athletes of that sex; and
   e) calculating the square root of that number.

For example:

Men

1. 1000-908 = $(92)^2$ = 8464
2. 950-908 = $(42)^2$ = 1764
3. 800-908 = $(-108)^2$ = 11664
4. 900-908 = $(-8)^2$ = 64
5. 850-908 = $(-58)^2$ = 3364
6. 975-908 = $(67)^2$ = 4489
7. 950-908 = $(42)^2$ = 1764
8. 875-908 = $(-33)^2$ = 1089
9. 900-908 = $(-8)^2$ = 64
10. 850-908 = $(-58)^2$ = 3364
11. 975-908 = $(67)^2$ = 4489
12. 875-908 = $(-33)^2$ = 1089

41668

Women

1. 800-710 = $(90)^2$ = 8100
2. 650-710 = $(60)^2$ = 3600
3. 700-710 = $(-10)^2$ = 100
4. 750-710 = $(40)^2$ = 1600
5. 400-710 = $(-310)^2$ = 96100
6. 775-710 = $(65)^2$ = 4225
7. 900-710 = $(190)^2$ = 36100
8. 850-710 = $(140)^2$ = 19600
9. 675-710 = $(-35)^2$ = 1225
10. 600-710 = $(-110)^2$ = 12100

182750

Standard deviation for **men**: $\sqrt{\frac{41668}{12}}$ = 58.92 (round to 59)

Standard deviation for **women**: $\sqrt{\frac{182,750}{10}}$ = 135.19 (round to 135)

"T" test continued:

In summary:

12 = (M) number of male participants
10 = (F) number of female participants
908 = (MA) average award to male participants
710 = (MF) average award to female participants
59 = (MS) standard deviation for awards to male participants
3481 = $(MS)^2$ the square of the standard deviation for men
135 = (FS) standard deviation for awards to female participants
18225 = $(FS)^2$ the square of the standard deviation for women

---

3. The following formula is used to calculate the **pooled standard error** (PSE):

$$\text{PSE} = \sqrt{\frac{(M-1) \times (MS^2) + (F-1) \times (FS^2)}{M + F - 2}} \quad \times \quad \sqrt{\frac{M + F}{(M) \times (F)}}$$

Using the figures from our example:

$$\text{PSE} = \sqrt{\frac{(12-1) \times (3481) + (10-1) \times (18225)}{12 + 10 - 2}} \quad \times \quad \sqrt{\frac{12 + 10}{(12) \times (10)}}$$

$$= \sqrt{\frac{38291 + 164025}{20}} \times \sqrt{\frac{22}{120}}$$

$$= (100.58) \times (.428)$$

$$= 43.05$$

"T" test continued:

The formula for the "t" value is: $t = \frac{(MA - FA)}{PSE}$

Using the figures from above: $t = \frac{908 - 710}{43.05}$

$= 4.59$ (round to 4.6)

---

4. To calculate the **degrees of freedom**, subtract 1 from the number of participants for each program and add the two figures:

For example:

$$\begin{array}{rcrcl} 12 - 1 & = & 11 & = & 20 \\ + \underline{10 - 1} & & + \underline{9} & & \end{array}$$

20 = the degrees of freedom

Consult the table on page 163 for 20 degrees of freedom at the .05 significance level - the value is 2.086 on the table (table is taken from Public Program Analysis, Applied Research Methods, by Theodore H. Poister, University Park Press, 1978, Appendix). The t value must be greater than 2.086 to be significant. Since 4.6 is greater than 2.086, the difference in the average award to men ($908) and the average award to women ($710) is statistically significant. Therefore, if the institution cannot provide a nondiscriminatory justification for the statistically significant difference in the average awards to male and female athletes, then the institution is in violation of 34 C.F.R. § 106.37(c).

If the degrees of freedom for a specific number is not listed on the table, for example, 52 degrees of freedom, then use the next lowest number on the table, which would be 40 degrees of freedom using the table on page 163. If the degrees of freedom is 121 or more, which is likely for the larger athletics programs, then the .05 significance level is 1.96. Thus, if the t value is greater than 1.96, the difference in the average awards is significant.

It is possible for the "z" test results to be found significant while the "t" test results are not, and the reverse is also true. If the results for either test are significant, and a nondiscriminatory justification is not provided, then the institution is in violation of the Title IX regulation.

USING THE COMPUTER FOR THE "Z" TEST AND THE "T" TEST

The "Lotus" computer program will calculate the "z" test and "t" test once the case specific figures are entered into the program. The directions below for using the Lotus program are written so that those unfamiliar with OCR's computer equipment or the Lotus program may use them, when necessary, to conduct the "z" test and the "t" test. Where quotation marks appear in the directions below, do not type the quotation marks, type the figures between the quotation marks. Directions requiring action by the user appear in capital letters so that they may be easily recognized. The directions below should be followed exactly. Otherwise, if mistakes are made, the user may start over by exiting Lotus, following the four step process on page 162, and then begin again with the instructions below.

"Z" Test Lotus Program Instructions:

1. Menu should appear on screen when computer is on; INSERT disk with "z" test program into disk drive A (top)
2. MOVE cursor to Lotus using arrow keys and HIT enter key
3. Cursor should be on "1-2-3" - HIT enter key
4. Warning appears; PRESS any key and Lotus spreadsheet appears
5. TYPE the forward slash "/" which is under the question mark symbol and the Lotus menu appears
6. MOVE cursor using arrow keys to "File" and HIT enter key
7. TYPE "r" for retrieve or HIT enter key; all files in default drive are listed
8. CHANGE from C drive to A drive by HITTING "Esc" button twice
9. "Name of file to retrieve" appears
10. IDENTIFY A drive by TYPING "A:\" (note that the last symbol is the backward slash); then HIT enter key and files will be listed at top of screen
11. MOVE cursor across, using arrow keys, to "ZPROP2S.WK1" and HIT enter key; "z" test worksheet will appear
12. USE arrow keys to move cursor to row 4 and over to column C; TYPE in the percentage of women (or men) in the program (in our example that is 33.892%; round out and TYPE ".339" - be sure to type in the decimal point) and HIT enter key (in Lotus, if a mistake is made in typing, USE arrow keys to return cursor to location where numbers should be entered, RETYPE entire number, and HIT enter key, then PROCEED to next step)
13. MOVE cursor to row 6, column C and TYPE in the percentage of funds received by women (or men, if using the figures for the men's program) - in our example the percentage of funds for women is rounded to ".277" - and HIT enter key
14. MOVE the cursor to row 8, column C and TYPE the total participants - in our example that is "298" - and HIT enter key
15. MOVE the cursor to row 10, column C and TYPE the total scholarship dollars - in our example that is "318000" - and HIT enter key
16. The z score will appear at step F (row 14, column B; if the score is greater than 1.96, the difference in proportions is statistically significant)

"T" Test Lotus Program Instructions:

If already using computer and Lotus program for "z" test, BEGIN with step 5 by TYPING "/" and CONTINUE through the remaining steps. Otherwise, begin as follows:

1. Menu should appear on screen when computer is on; INSERT disk with "t" test program into disk drive A (top)
2. MOVE cursor to Lotus using arrow keys and HIT enter key
3. Cursor should be on "1-2-3" - HIT enter key
4. Warning appears; PRESS any key and Lotus spreadsheet appears
5. TYPE the forward slash "/" which is under the question mark symbol and the Lotus menu appears
6. MOVE cursor using arrow keys to "File" and HIT enter key
7. TYPE "r" for retrieve or HIT enter key; all files in default drive are listed
8. CHANGE from C drive to A drive by HITTING "Esc" button twice
9. "Name of file to retrieve" appears
10. IDENTIFY A drive by TYPING "A:\" (note that the last symbol is the backward slash); then HIT enter key and files will be listed at top of screen
11. If cursor is not on appropriate file, MOVE the cursor using the arrow keys to the correct worksheet for the "t" test which is "TMEAN2S.WK1" and HIT enter key; "t" test worksheet will appear
12. USE arrow keys to move the cursor across to columns F4 and H4 (which are not on screen until moving cursor across worksheet) use column F for men and column H for women; the computer program is set up to accommodate as many as 750 male participants and 750 female participants in the columns
13. TYPE the dollar amounts of aid for each male participant in column F starting at row 4; HIT down arrow key after each entry - this will enter number in column and move cursor down to next entry; TYPE the number "0" (not the letter O) for each male participant that does not receive scholarship aid; leave the remaining entries in column F blank (in Lotus, if a mistake is made in typing, USE arrow keys to return cursor to location where numbers should be entered, RETYPE the entire number, and HIT enter key, then PROCEED to next step)
14. After typing in dollar amounts for each male participant, USE arrow keys to go to top of column H at row 4
15. TYPE the dollar amounts of aid for each female participant in column H; HIT down arrow key to enter number and proceed to next entry; TYPE the number "0" (not the letter O) for each female participant that does not receive scholarship aid; leave remaining entries in column H blank
16. After typing in the last dollar amount for the last female participant, HIT the enter key, then HIT the "home" key; hitting the home key returns the cursor to column A, row 1, and the results of the "t" test will be visible on the screen
17. The average award for male athletes is at column C, row 4;
    the average award for female athletes is at column C, row 6;
    the standard deviation for male athletes is at column C, row 8;
    the standard deviation for female athletes is at column C, row 10;
    the total number of male participants is at column C, row 12;
    the total number of female participants is at column C, row 14;
    the pooled standard error is at step F (column B, row 16)

"T" Test Lotus Program Instructions (continued)

18. The calculated t score is at step G (column B, row 18)

Manually calculate the degrees of freedom and consult the table on page 163 for the degrees of freedom at the .05 level of significance to determine whether the differences between the average award to male and female athletes is significant.

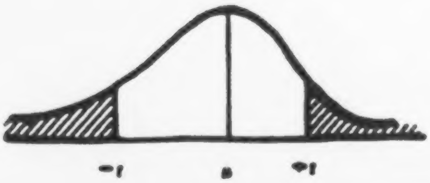
There is no need to erase the statistics from one investigation from the computer disk to input the statistics from the next investigation. Simply move the cursor to the appropriate column, type the entire number, and hit the enter key or the key noted in the above instructions to enter the correct numbers from one case to the next. However, if necessary or desired, to erase all numbers from either the "z" test or the "t" test, follow the instructions below.

1. With the appropriate worksheet for either test already on the screen (see steps 1-11 for the "z" test or "t" test above), MOVE cursor to first item in column to be erased.
2. HIT "/" to get the Lotus menu
3. HIT "r" for range to get to the next menu
4. HIT "e"
5. HIT "."
6. HIT the down arrow to the last number in the column until entire area of numbers is shaded
7. HIT enter key and numbers will be erased
8. To exit Lotus, FOLLOW the directions below

Instructions to exit Lotus:

1. TYPE "/" to get the Lotus menu
2. TYPE "q" for quit
3. TYPE "y" for yes to exit Lotus 1-2-3
4. TYPE "e" for exit out of Lotus

"T" Test Table



	Level of Significance for one-tailed test					
	0.10	0.05	0.025	0.01	0.005	0.0005
	Level of Significance for two-tailed test					
df	0.20	0.10	0.05	0.02	0.01	0.001
1	3.078	6.314	12.706	31.821	63.657	636.619
2	1.886	2.920	4.303	6.965	9.925	31.598
3	1.638	2.353	3.182	4.541	5.841	12.941
4	1.533	2.132	2.776	3.747	4.604	8.610
5	1.476	2.015	2.571	3.365	4.032	6.859
6	1.440	1.943	2.447	3.143	3.707	5.959
7	1.415	1.895	2.365	2.998	3.499	5.405
8	1.397	1.860	2.306	2.896	3.355	5.041
9	1.383	1.833	2.262	2.821	3.250	4.781
10	1.372	1.812	2.228	2.764	3.169	4.587
11	1.363	1.796	2.201	2.718	3.106	4.437
12	1.356	1.782	2.179	2.681	3.055	4.318
13	1.350	1.771	2.160	2.650	3.012	4.221
14	1.345	1.761	2.145	2.624	2.977	4.140
15	1.341	1.753	2.131	2.602	2.947	4.073
16	1.337	1.746	2.120	2.583	2.921	4.015
17	1.333	1.740	2.110	2.567	2.898	3.965
18	1.330	1.734	2.101	2.552	2.878	3.922
19	1.328	1.729	2.093	2.539	2.861	3.883
20	1.325	1.725	2.086	2.528	2.845	3.850
21	1.323	1.721	2.080	2.518	2.831	3.819
22	1.321	1.717	2.074	2.508	2.819	3.792
23	1.319	1.714	2.069	2.500	2.807	3.767
24	1.318	1.711	2.064	2.492	2.797	3.745
25	1.316	1.708	2.060	2.485	2.787	3.725
26	1.315	1.706	2.056	2.479	2.779	3.707
27	1.314	1.703	2.052	2.473	2.771	3.690
28	1.313	1.701	2.048	2.467	2.763	3.674
29	1.311	1.699	2.045	2.462	2.756	3.659
30	1.310	1.697	2.042	2.457	2.750	3.646
40	1.303	1.684	2.021	2.423	2.704	3.551
60	1.296	1.671	2.000	2.390	2.660	3.460
120	1.289	1.658	1.980	2.358	2.617	3.373
∞	1.282	1.645	1.960	2.326	2.576	3.291

Illustration: The t value for 9 degrees of freedom corresponding to an area of 0.05 in both tails is 2.262; the t value for 9 degrees of freedom corresponding to an area of 0.05 in one tail is 1.833.

Adapted from Table III of Fisher and Yates. 1974, p. 46.

TAB E

MEMORANDUM

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

JUN 27 1983

TO : William H. Thomas
Regional Civil Rights Director
Region IV

FROM : Harry M. Singleton
Assistant Secretary
for Civil Rights

SUBJECT: Policy Clarification - Title IX Coaching Compensation

You have asked whether § 106.54 of the Title IX regulation prohibits disparate coaching salaries which are based on the sex of the students receiving coaching services rather than on the sex of the coaches providing the coaching services.

Legislative history and applicable case law precedents lead to the interpretation that § 106.54 prohibits disparate coaching salaries which are based on the sex of the coaches providing the coaching services. The following explains the basis for this determination.

Title IX's regulatory history indicates that § 106.54(a) was modeled after requirements of the Equal Employment Opportunity Commission's "Sex Discrimination Guidelines" for consistency with Title VII of the 1964 Civil Rights Act and § 106.54(b) was worded for consistency with the Equal Pay Act of 1963. Framers of the regulation made their intentions clear in the discussion of various sections published with the final Title IX regulation at 40 Fed. Reg. 24135, 24136 (1975):

> Subpart E generally follows the Sex Discrimination Guidelines of the Equal Employment Opportunity Commission and the regulations of the Office of Federal Contract Compliance, United States Department of Labor . . . an employer who complies with the Title IX regulation will generally be complying both with Title VII and the Executive Order.
>
> . . .
>
> Section 106.54(b) has been simplified over the language appearing in the proposed regulation to prohibit a recipient from enforcing any policy or practice which results in the payment of wages to members of one sex at a rate less than that paid to members of the other sex for equal work on jobs, the performance of which requires equal skill, effort and responsibility, and which are performed under similar working conditions. This makes the Title IX regulation consistent with the wording of the Equal Pay Act of 1963, and will enable the Director to rely on the case law established under the Equal Pay Act to interpret and enforce paragraph 106.54(b). (citations omitted)

Consequently, Title VII case law should be used in interpreting § 106.54(a) and case law established under the Equal Pay Act in applying § 106.54(b). In applying the case law under these two statutes, it is clear that to find a violation of either § 106.54(a) or § 106.54(b), we must establish that any disparity in compensation is based on the sex of employees.

Therefore, the fact that the athletes who are coached by persons compensated at a lower rate are all female will not support a violation under Subpart E, generally, or under § 104.54 in particular.

In focusing on the sex of the employee(s), as required under Subpart E, a violation can readily be established if, without regard for qualifications, a recipient assigns only females to the position of lower compensation and only males to the positions of higher compensation. This configuration creates a very strong presumption that the sex of the employee controls the resulting compensation. The difficulty arises when both males and females, with regard for their qualifications, are compensated at a lower rate. There can be no presumption in such a case that the lower compensation is based on the sex of the employee. Nevertheless, a finding of sex discrimination in violation of Subpart E may be made in such a situation, provided there is sufficient evidence that the recipient considered the sex of either the male or female coaches in assigning them to the positions of lower compensation or, subsequently, in making decisions with respect to compensation. Also, a violation of Subpart E may be found where there is evidence that female coaches are excluded from positions of higher compensation -- coaching boys' athletics -- without regard for their qualifications. Section 106.51, which prohibits discrimination in employment generally, as well as discrimination in hiring, rates of pay, and job assignments would be relevant to both situations. In neither case is the sex of the students coached relevant.

While the sex of the students coached is not relevant to the Subpart E determinations described above, the fact that lower compensation is paid to those who coach them is relevant to a determination of compliance under Subpart D. Specifically, 34 C.F.R. § 106.41 requires that students not be denied equal athletic opportunity on the basis of their sex due to disparities in coaching compensation.